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9. Of the Laws for regulating Hackney-Coaches, Chairs, Garmen, and Watermen in and about *London*.

inted by *Eliz. Nutt*, and *R. Gosling*. (Assigns of *Edward Sayer Esq;*) for *J. Brown* and *F. Clay*, without *Temple-Bar*, and *J. Hooke* against *St. Dunstan's-Church, Fleet-Street*. 1718.



THE

PREFACE.

AS the Intention of a Preface, is either to let the Reader into the Design of the Book, or to bespeak his Favour, I shall according to Custom, endeavour to give the gentle Reader, some account of what he is to expect in the following Sheets, but leave him at Liberty to spend his Judgment of the

The PREFACE.

Performance till he has considered it.

The Reader will observe, my principal Design has been to single out such Points, as seem most necessary to be understood by the Generality of People, and such as have not yet been reduced into Method and adapted to their Capacities: And as Laws seem rather calculated for the Bulk of Mankind, than for the Wise and Great, (who either less need such Restraints, or when they do become obnoxious, often find it in their Power to break through or evade their Force.) I design this little Manual principally for the Multitude, who are most conversant in these Affairs.

The PREFACE.

Affairs, and consequently most concerned to be acquainted with the Laws relating to them; not but that the Variety of Matter it contains, will often render it useful to those in higher Stations. And surely, in this populous and trading Nation, whose busy Inhabitants are perpetually transporting themselves or their Effects from one Place to another; a Nation whose Dominions and Factories lie dispersed in every Quarter of the habitable World, whose Traffick is unlimited, and extends to every Thing that either Earth or Seas produce; to such a People in general, *A View of the Laws concerning Travelling and Transportation,*

The PREFACE.

portation, must be acceptable. Every Day furnishes us with some Occasion of inquiring, how the Law stands in Relation to these Matters; Conversation frequently turns upon these Points, and yet very wild and confused are the Notions of those who are most concerned to understand them; and as the Case stands, it cannot reasonably be expected that it should be otherwise, for either People must take up with such Information, as they receive from those who have little more Skill in these Things than themselves, or they must have Recourse to numerous Volumes to satisfy their Inquiries, which some Men possibly may want

The PREFACE.

Leisure or Capacity to collect the Sense of. It is not therefore without Reason, that such Attempts as these have generally met with Success: And that this may find the better Reception, it is so contrived, that nothing in it may remain dark or obscure to a common Understanding; and yet it is supported by the best Authorities, which are quoted almost in every Paragraph; nor will the Price or Bulk of it much incommode the Traveller, who makes it the Companion of his Voyage. How trifling soever these Subjects may appear to some, since our Judges and Senators often think them worthy of their grave De-

The PREFACE.

Debates; and since they are of that universal Concern, I shall not detain the Reader with any Apology for reducing these Laws into Method, and rendering them thereby more useful to the People, but without more Ceremony, recommend them to his Perusal.

THE

THE
CONTENTS.

CHAP. I.

OF Horses and Carriages that are hired or borrowed, how they ought to be used, and when the Owner, and when the Borrower, shall bear the Loss where they come to any Damage, Page 1

CHAP. II.

Of Robberies and other Accidents upon the Road, particularly of Hwe and Cry, and of suing the Hundred: Also of Deodands or Forfeitures, where one happens

The CONTENTS.

*pens to be killed by the overturning of a
Coach or other Casualty.* 6

C H A P. III.

*Of Highways, and of Obstructions
and Nuisances therein; and of the Re-
pairs of Highways, so far as the Tra-
veller is concerned in them; also of
the proper Remedies to be taken, where
he happens to be hurt or hindered in his
Passage,* 43

C H A P. IV.

*Of such Trespasses as the Traveller may
be induced to make for the avoiding
bad Ways, or upon other Occasions,* 61

C H A P. V.

*Of Land-Carriage, and where Carriers
will be responsible for Goods delivered
them, and where not; and herein of
riding or sending by the Post, and of
providing Carriages for the Army upon
a March,* 68

Of

The CONTENTS.

CHAP. VI.

of the Laws concerning Innkeepers, and the Remedies against their Extortions; of their being answerable for the Goods of their Guests; and of the Entertainment of Travellers at their Inn, 105

CHAP. VII.

of Water-Carriage; and under this Head of the Laws concerning the Importation and Exportation of Merchandize; of Passengers on Shipboard; as also of Ship-wreck and other Accidents by Sea, 119

CHAP. VIII.

of the Laws concerning Bills of Exchange and Promissory Notes; of the accepting, assigning, and protesting them; as also of the Currency of Money, and where it may be refused or cut in Pieces, if suspected, 155

CHAP.

THE CONTENTS.

CHAP. IX.

*Of the Statutes and By-Laws concerning
the Regulation and Government of
Hackney-Coaches, Chairmen, Carrmen
and Watermen, and of their respective
Rates and Fares in and about the City
of London; and the Methods of pro-
ceeding against them, where they are
guilty of any Rudeness or Misbehaviour.*

Page 170

*The Laws concerning Bills of Ex-
change and Promissory Notes; of the
Receipting, offering, and protesting
of Bills of the Currency of Money.
When it may be refused or not
refused, if protested.*

CHAP.

THE
L A W S
CONCERNING
Travelling, &c.

C H A P. I.

*of Horses and Carriages that are hired
or borrowed.*

W H E R E one borrows or
hires Horses,
Coaches, Carts
&c. he may
make Use of them for the
purposes they were bor-
row'd or hired; and if they happen to
B be

*How Beasts, &c. that
are hired or borrowed,
ought to be used, and
if they miscarry,
whose is the Damage.*

2 *Of Horses and Carriages*

be spoiled or damaged, in an ordinary and moderate Use of them, the Traveller is not compellable to repair the Loss; but if he abuse them, or neglect to take Care of them, or put them upon more or other Service than is reasonable, or was intended or agreed for, he is liable to make the Owner Satisfaction.

Action for riding a Horse farther than it was agreed on.

The Plaintiff brought his Action on the Case at Exeter, for that having lent the Defendant his Horse to ride from London to Exeter, he refused at Exeter to re-deliver the Horse, and rode him back again to London, and so abused the Horse, that he became of little Value; whereupon the Plaintiff obtain'd a Verdict and 10 l. Damages. And on Motion in Arrest of Judgment it was resolved by the Court, That the Action was well brought at Exeter, because the principal Tort was the not delivering the Horse there upon Request, and that he afterwards converting the Horse to his own Use, the Plaintiff might well bring his Action for both together. *Gro. Car. 20.*

Action for over-labouring a borrow'd Horse.

Rives brought his Action on the Case against Moxham, for that the Plaintiff having lent the Defendant his Mare for two Days, the Defendant promised to re-deliver her safe

safe at the End of the said two Days; but that he so excessively labour'd her during that Time, that she soon after died; and the Plaintiff obtained a Verdict. But upon Motion Judgment was stayed, because there was no Place assigned in the Declaration where the Labouring was, which was put in Issue. But the Court held, That if the Promise had been laid to be at one Place, and the Labouring in another, the Plaintiff had his Election to bring his Action in either. *Hob. 187.*

If one hires or borrows a Horse to ride to a certain Place, and the Party rides him farther, or rides out of the Way, or backwards and forwards in the same Way, oftener than was intended and agreed on; in any of these Cases the Owner may maintain an Action against the Rider, especially if the Horse be damaged thereby; also, if he ride the Horse at an excessive Rate, or hurt him by over-loading him, &c. the Owner is entitled to an Action.

Using a Horse otherwise than is agreed on, the Rider liable to an Action.

12 Ed. 4. 13. 8 Co. 146. It

is held also, That if the Rider puts the Horse in to a ruinous Building,

Rider liable to an Action, for not taking Care of the Beast.

where there is apparent Hazard of its falling, and it does fall down and hurt

4 Of Horses and Carriages

him; or if the Rider neglect to take due Care of the Horse, or suffer him to be abused; in any of these Cases, the Owner is entitled to an Action against the Rider. 1 *Brownl.* 8, 9, 17. 1 *Cro.* 14.

Promise to restore a lent Horse safe, not Obligatory where he miscarries by ordinary using. But a Promise to return or restore a borrowed or hired Horse safe, is not binding where the Horse happens to die in the

Journey, without the Rider's Fault; and the Rider shall not be obliged to make Satisfaction to the Owner notwithstanding his Promise; for where a Man lets or lends his Horse, he must be supposed to lend him with a Design, that the Rider may make use of him in such a Manner as Horses are commonly used. *Vid. Lisle's Case* cited in *Matraver's Case*, *Trin.* 1651. B. R.

Whether one may set another upon a borrowed Horse.

The Plaintiff brought Trespass for immoderately riding his Mare: The Defendant pleaded, That the Plaintiff lent him the Mare, & *dedit licentiam eidem le Plaintiff* to ride the said Mare, and that the Defendant and his Servant *alternatim* had rid the Mare: In this Case it was urged, That there was a Difference to be taken between hiring and borrowing; and that where a Person hires a Horse, he may set whom he

he pleases on the Back of him; but that it is otherwise where he borrows him. *North* held the contrary, and that where a Horse is lent to a Person for a certain Time, he may make what Use of him he pleases. 1 *Mod.* 210.

In an Action of Assault and Battery it appeared, That the Plaintiff had hired a Gelding of the Defendant for two Days, to ride from

One cannot take away his Horse during the Time he is let for, though used otherwise than was agreed on.

Gravesend to *Nettlebed* in the County of *Kent*, for which he was to pay the Defendant 4 s. and that the Gelding being delivered to the Plaintiff, he rode another Way to a Place called *B.* in the Road to *London*, and the Defendant having Notice of it, overtook the Plaintiff upon the Road, and by the Assistance of his Servant took the Gelding from him. It was adjudged for the Plaintiff; for whatsoever the Intent of the Plaintiff was, the Defendant could not justify the seizing and taking away the Gelding from the Plaintiff, within the Time for which he was hired, he having a special Property in him against all Men for that Time; but if the Plaintiff had misused the Horse, the Defendant might have had an Action on the Case against him. *Hill. 7 Jac. 1. B. R. 3 Cro. 236.*

*Breach assigned not
pursuant to the A-
greement, naught.*

The Plaintiff declared, That the Defendant hired such Horses of him, and agreed to give him 3 s. 6 d. a Day for the Hire of each Horse, and that if he did not return them in as good Plight as they were at the hiring, he would pay the Plaintiff 10 l. for every Horse that was worse; and the Plaintiff assigned for Breach, That one of the Horses was detained for so many Days beyond the Time agreed on, and the other were not yet returned; and the Plaintiff had a Verdict in the Marshalsea: But Judgment was given against him in B. R. because the Breach was not laid as the Promise is. 1 *Siderfin* 440. 1 *Ventr* 64. From these Instances, it will be easy to collect in what Manner Things that are hired or borrowed ought to be used.

CH A P. II.

Of Robbery, &c.

THE next Thing proposed, is to shew how the Law stands in Relation to such Accidents, as the Traveller is liable

ble to upon the Road from Robbers, Thieves, &c.

And here it will be necessary to distinguish between Robbery and Larceny, or private Theft; because in Robbery the

Difference between Robbery and private Theft. In the first, the Hundred is chargeable, in the other not.

Hundred is liable to make Satisfaction, but in Larceny or simple Theft it is not; nor does it seem equitable that the Hundred should be chargeable for the Traveller's Negligence.

By Robbery on the Road is to be understood, the taking any Thing

Robbery on the Road defined.

from a Man by Violence, or the putting him in such Fear and Dread, as shall induce him to part with his Money or Goods for his Preservation. 3 Inst. 68. And as the Robbers must have the actual Possession of the Goods to denominate it a Robbery, so no Re-delivery of them to the Owner can purge the Offence, or render him less obnoxious to Justice.

By Larceny on the Road I understand a private Theft committed without the Know-

Larceny defined.

ledge of the Owner, or where the Owner is not put in Fear; and this may be either from his Person, his Baggage or Carriages: If it be from his Person, and exceed the Value of 1 s. the Offender is

Where Clergy is taken away from it.

excluded the Benefit of Clergy : But where any Thing is stolen private-

ly from the Traveller's Baggage, Portmanteau or Carriages, there the Offender will have the Benefit of his Clergy, let the Value be never so great, nor can the Hundred be compelled to make any Reparation for the Loss.

And by the 29 Car. 2.

Hundred not chargeable to the Party, for a Robbery committed on a Sunday.

cap. 7. If any Person travelling on the Lord's day be robbed, the Hundred shall not be charged :

But the Inhabitants after Notice of such Robbery, or Hue and Cry for the same, shall make Pursuit according to the Statute of 27 Eliz. in Pain to forfeit to the King, as much Money as might have been recovered if that Act had not been made.

And in all Cases where an Action is brought against the Hundred, these Rules must be observed :

Rules to be observed where the Hundred is sued.

I. The Person robbed must immediately give Notice to the next Village where the Robbery is committed ; and it is not material, whether such Village be in the same County and Hundred or not.

2. The

2. The Action must be brought within a Year and a Day after the Robbery: But it cannot be brought till forty Days after, because if any one of the Robbers be taken within that Time, the Hundred is discharged.

3. The Party robbed, must within twenty Days next before his bringing the Action, and *Teste* of the original Writ, make Oath before a Justice of Peace of the County, whose Residence is in or near the Hundred, that he does not know the Persons who robbed him; and if he does know them, he must enter in to a Recognizance before such Justice of the Peace, to prosecute them according to the 27 *Eliz. c. 13.* and then he shall have his Action against the Hundred, if none of them be taken.

4. The Robbery must be committed in the Day-time to entitle the Party to this Remedy against the Hundred; for if it be done in the Night, the Hundred is not liable: And by Day-light we understand such Light, as one Man's Face may be discerned from another's, though it happen to be some little Time before Sun-rise or after Sun-set. 1 *Cro.* 270. *Cro.* 106.

And 5. This Action does not lie for a Robbery committed in a House; and it has been held, That this Action would

not lie if the Robbery were not done in or near the Highway. *Cro. Car.* 266. But see *1 Mod.* 221. That the Hundred is chargeable, although the Robbery be not done in the Highway; these Points will be farther exemplified in the following Resolutions.

Servant may bring the Action, though it be the Master's Money.

In an Action on the Statute of *Winton* it appeared, That the Plaintiff was a Servant, and had received Money of his Lady's, of which he was robbed: And it was resolved, That although the Plaintiff was but a Servant and Receiver of the Lady, he might maintain this Action against the Hundred. *Vide Style* 318.

Notice to one of the Hundreds, where it happens on the Confiner of two Hundreds, sufficient.

In an Action on this Statute, where the Party was robbed in such a Highway in *diversis Hundred's*, &c. Notice was given to the Inhabitants of one of the Hundreds, and adjudged to be sufficient Notice. *3 Jac.* 1. *Rob.* 488. *Foster* and the Hundred of *Isleworth*. *Cro.* 2 Part, 675.

A Person assaulted in one Hundred fled to another, and was robbed, the last Hundred chargeable only.

In an Action brought against the Hundred it appeared, That the Party was assaulted by the Thief in one Hundred and fled from him, and was taken and robbed.

robbed in another Hundred: The whole Court were of Opinion, That the Hundred only where he was robbed should be chargeable. *Mich. 10 Car. 1. Dean's Case. Hutton 125.*

It has been held, That where a Carrier is robbed by his Son and his Servants, he is nevertheless entitled to his Action against the Hundred; but the Conspiracy may be urged in Mitigation of Damages. *Mich. 1654. B. R. Matthew and the Hundred of Goldalming's Case. Style 427.*

Carrier robbed by his Servants, shall have an Action against the Hundred.

Where the Servant is robbed of his Master's Money, and the Master brings the Action, the Servant must make Oath that he does not know the Thieves, &c. *Cro. Car. 38, 256.*

Servant robbed must make Oath.

If a Man in struggling with the Thief shall drop his Purse, or if he throw his Money down, unless the Thief or some of his Gang take it up, it is no Robbery; for something must be taken, as has been observed already to denominate it a Robbery. And an Assault in Order to rob, how violent soever, and although

Thief must be in Possession of the Goods to make it Felony.

An Attempt to rob, no Felony.

the Party be wounded in the Encounter, does not amount to Felony. 3 *Inst.* 69.

Baggage robbed in the Presence of the Owner, Felony.

But a Man's Person is said to be robbed in many Cases, where the Goods are not in a strict

Sense taken from his Person ; as where a Horse or Cart is loaded with Goods, and the Owner (or Driver) is put in Fear, and the Goods taken away against his Consent, this amounts to Felony without Benefit of Clergy, and the Hundred are chargeable for it. Also where a Servant is robbed in the Master's Presence, the Master being put in Fear, the

And deemed a taking from his Person.

Offender may be indicted as having robbed the Master, and the Words of the Indictment shall be *à Persona* of the Master, &c. *ibid.*

Care to be taken in making Oath before a Justice.

An Action was brought against the Hundred, the Plaintiff having made Oath, That he was robbed by four Persons, and that he did not know them [or any of them] being omitted : And it was doubted, whether the Oath so taken, were a sufficient Foundation for the Action. 3 *Lev.* 328.

In an Action on the Statute of Winton, by Constable versus homines Inhabitantes in dimid. Hundred de Waltham.

How an Action against a half Hundred should be brought.

The Court gave Judgment for the Plaintiff; for the Court will intend it to be a whole Hundred after Verdict, although it be called an half Hundred, and in Fact it had a Hundred Court by it self; and if it were otherwise, it ought to have been pleaded or given in Evidence.

A Precedent was there shewn of a like Action, versus Inhabitantes in Hundredo de W. communit. vocat. the half Hundred of W. Hob. 246.

Where there is any Default in following the Hue and Cry by any other Hundred, the Hundred charged with the Robbery, shall recover one half of their Damage against such Hundred making Default.

Hundred failing to continue the Hue and Cry, to bear half the Damage.

A Man ought to shew in his Count the Particulars of the Goods, (tho' it need not be done in the Writ) and to what Persons they belong. 2 Saund. 379.

The particular Goods to be specified in the Declaration.

Every

Every Occupier of Lands to contribute.

he do not dwell there. 2 *Saunders* 423.

Prosecutor entitled to Restitution of his Goods.

Every Person who uses Lands in the Hundred, is chargeable, although By the Common Law, a Person was not entitled to a Writ of Restitution, unless he made fresh Suit after the Felon; but by 21 *H. 8. cap. 11.* if a Felon robs one of his Goods, and he is convicted by the Evidence of the Party robbed, or by others where he is Prosecutor; the Justices before whom the Offender is tried may award Restitution, in like Manner as if the Felon had been attainted at the Suit of the Party in Appeal. And although the Statute

And so are his Executors.

mention only the Party robbed, yet his Executors or Administrators may have such Writ. 3 *Inst.* 242.

Felon outlawed, Restitution shall be made.

Also where the Felon is outlawed upon the Indictment by Means of the Party robbed, he shall have Restitution. *Dalton, cap. 122.*

Before Sale the Owner may take his Goods where he finds them.

Where Goods have not been sold in open Market, (or waived, or seized by the King's Officers or Lord of the Manor,) the Owner may take them again, where-ever he finds

finds them, without Restitution being awarded.

Where Hue and Cry is levied after any Person, either by Common Law or by Force of the

Lawful to arrest a Person after whom Hue and Cry is made.

Statute, the Arrest of such a Person is lawful, although the Cause of such Hue and Cry be feigned: But

if it be feigned, he that levied it, is liable to be punished by Fine and Imprisonment. 3 Inst. 118.

Where one levying it shall make Satisfaction.

By the Common Law, when any Felony was committed, or a Person

Of Hue and Cry by the Common Law.

dangerously wounded, or where any Person was assaulted and attempted to be robbed either by Day or Night, the Party grieved, or any other for him, might resort to the Constable of the Town, and acquaint him with the Cause, describing the Offender, and telling him which Way he went, and require him to raise a Hue and Cry: The Constable was then to raise the Power of the Town, in order to apprehend the Offender; but if he was not found there, he was to give Notice to the next Constable, and so to the next, until the Offender was found, and this was the Law before the Conquest. 3 Inst. 116. And the

Statutes.

Affirm'd by Statute.

the Common Law.

To be by Horse and Foot.

by Horse and Foot.

Two Justices of Peace to levy the Money recovered of the Hundred.

thereto, two Justices of the Peace, *Quor' un'*, dwelling within or near such Hundred, shall for the levying thereof, set a Tax upon every Parish within that Hundred, according to which the Constables and Headboroughs of every Town shall tax the particular Inhabitants, and levy the Money upon them by Distress and Sale of Goods, and deliver the Money so levied to the Justices of Peace, or one of them. 27 *Eliz.* 13.

Lawful to arrest a suspected Person at the Instance of the Party robbed.

In an Action of false Imprisonment (the Defendant justified, That a Felony was committed, and that by the common Fame of the Country, the Plaintiff was a loose disorderly Fellow, and had committed the Felony; and that the Party robbed came

Statutes of *Westm.* 109. and 3 *Ed.* 1. were made but in Affirmance of

And no Hue and Cry is deemed sufficient, unless the Pursuit be both

When Damages are recovered against one or more Inhabitants of the Hundred, and the rest refuse to contribute

In an Action of false Imprisonment (the Defendant justified, That a Felony was committed, and that by the common Fame

to the Constable and required him to apprehend the Plaintiff, whereupon the Constable commanded the Defendant to aid and assist him, which is the same Trespass, &c. *Et per Keble, Varvassour and Mansfield*, it was held to be a good Plea, and that it was lawful to apprehend the Plaintiff, on the Suspicion of the Party robbed. *Bro. Tit. Faux Imprisonment, 14.*

And if a Man hath good Cause to suspect that a Felony is committed, and that such a Person is guilty of it, and

Where one indicts a Person of Felony on good Grounds, who is acquitted, no Action lies for it.

whereupon proceeds in the ordinary course of Law, and causes him to be indicted; an Action will not lie against the Prosecutor, although no Felony was in Reality committed. *14 Jac. 1. Wells versus Wells, B. R.*

Where a Person dangerously wounds another, any Man may apprehend the Offender, till

Person who wounds another, may be apprehended.

it appears whether the Party is likely to live or die. *Brook Tit. Faux Imprisonment,*

By the Statute of *Win-*
a Watch ought to be kept all Night, from sunset to Sun-rising,

Stranger travelling in the Night to be arrested by the Watch.

between *Ascension* and *Michaelmas*; and if a Stranger

a Stranger pass throw any Town or Village in the Night, he may be arrested till Morning; when, if they have no Suspicion of him, he may be dismissed; but if he refuses to obey the Arrest, they shall levy Hue and Cry after him.

The old Law as to Maiming or Dis-membring a Man.

Anciently where a Person set upon another and maimed or dismembered him, the Offender was to give Limb for Limb, but afterwards he was only punishable by Fine and Imprisonment; and the cutting off an Ear or Nose was not so much as interpreted a Maim, because the Sufferer was not thereby the less able to serve his Country in the Wars, or get his Living. *Vide 3 Inst. Tit. Maim.* But by the 22 & 23 Car. 2. cap. 1. it was enacted, That if

Where one maims or dismembers a Man, tis Felony.

any Person should on Purpose, of Malice aforethought, and by lying in wait unlawfully, cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose or Lip, or cut off or disable any Limb or Member of any Subject, the Person and Persons so offending, their Counsellors, Aiders, and Abettors, knowing of and privy to the Offence, are declared to be Felons.

Felons, and shall suffer Death without Benefit of Clergy.

Before this Statute, it was less penal to maim or dismember a Man, than to rob him of a Shilling; and at this Day, where a Villain wounds a Man in any less Degree than is here mentioned, he shall only be fined and imprisoned.

Highway-man wounds a Person, no Felony.

By 24 Hen. 8. cap. 5.

If any Person be indicted or appealed for killing a Person attempting to commit a Robbery or Murder, such Person shall be acquitted, and shall forfeit nothing.

Justifiable to kill a Robber in the Attempt.

A Servant may justify killing a Robber in Defence of his Master.

Servant in Defence of his Master.

And any private Person may justify killing a Felon, who stands upon his Defence, or flies so as he cannot be apprehended alive.

Lawful to kill a Felon refusing to submit.

Where a Man is indicted of Felony, his Goods shall not be seized, and removed out of his

Felon to have the Benefit of his Goods till he is attainted.

House, till he is attainted; but they shall be in the Custody of the Neighbourhood, and he shall have what is necessary for his Use

Use and Maintenance out of them in the mean Time. *Brook Tit. Forfeiture, 242.*

Goods forfeited for Petit Larceny.

For Petit Larceny the Offender forfeits all his Goods, but not his

Lands. *ibid. 341.*

Person finding Goods, answerable for them to the Owner.

Where a Person happens to lose his Goods upon the Road, and another finds them, he is

generally chargeable for them to the Owner, in whose ever Hands they come afterwards. Indeed, if the Person who found them, casually lose them again, he shall not be answerable for them; but if he sell or embezil them, he certainly shall. *Brook Tit. Detinue, 228.* But if the Goods have been fairly sold in open Market, the Owner cannot have them again in Specie: It is otherwise where a Person is robbed, and prosecutes the Felon to

Goods sold in open Market that have been lost.

Conviction; for there he shall have his Goods again, although they have been sold in open

Market. *Brook Tit. Estray, 298.*

Note, A Sale in a Broker's Shop is not deemed a Sale in Market-Overt so as to alter the Property: But where Goods are sold to a Tradesman in an open Shop, whose proper Business it is to deal in such Goods

Goods, and the Trade is a lawful Trade, this will be deemed a Sale in Market-Overt. *Kelynge* 35, 48.

Trespass, Assault, Battery and Imprisonment at D. in the County of . The Defendant justified, that the Plaintiff

Any one may justify arresting a Person about to commit Robbery or other Felony.

was at R. in the same County, in a Way leading from P. to Q. and that he lay in wait there to rob the King's People: That one *Alice S.* was riding by, against whom the Plaintiff drew his Sword, and commanded her to deliver her Purse, and the Woman levied Hue and Cry; cried out:] Whereupon the Defendant being near the Place and hearing the Noise, came to her Assistance and took the Plaintiff; and because there were no stocks in that Place, he brought him to S. and delivered him to the Constable, which is the same Battery, &c. *Per Cur.* The Justification is good, although no Felony was actually committed; and if one sees a Person about to kill another, he may apprehend him and confine him: and where a Person is about to commit a felonious Act, any one may arrest him. *pro. Tit. Trespas,* 184. Also one may justify the beating of another in Defence of his Goods. *ibid.* 185.

Resolved

Servant may kill a Man in Defence of his Mast. r.

Resolved by all the Justices, That a Servant may beat a Man in Defence of his Master, and even kill him, if he cannot otherwise save his Master's Life. *Bro. Tit. Trespass,* 217.

Servant refusing to swear a Robbery, the Master has no Remedy.

Where two Servants are robbed of their Master's Money in the Absence of the Master, each of them must make Oath of the Robbery, &c. And in a Case where one of the Servants being a Quaker, refused to swear, it was held insufficient to charge the Hundred with the Money in the Quaker's Custody. *Showers's Reports,* 94.

Carrier taken in one Hundred, and his Goods rifled in another, the first Hundred only chargeable.

Money was delivered to a Carrier to carry to London; he put it up in to a Pack, and Thieves set upon him in one Hundred, and took his Horse with the Pack, and led him into another Hundred, and there rifled the Pack. It was resolved by the whole Court, That this was a Robbery within the first Hundred and not within the second; for it was a Robbery from the first taking: But it was said, If the Carrier had led his Horse himself, he would have been deemed to have

have been still in the Possession of him, and consequently there could have been no Robbery, till he came into the second Hundred. And a

Case was cited, where a Man's Pocket was picked of his Purse, and the

A Man's Pocket pick'd of his Purse, which hung by a Key; and held to be no Felony.

Thief taken in the Manner; but a Key being fastened to the Purse, it still hung upon his Pocket: and it was the Opinion of the Justices, that the Owner remained in Possession of the Purse, and therefore there could be no Larceny. *Pasch. 30 Eliz. C. B. Holdsb. 86.*

Where one delivers Money or Goods to his Friend to carry to such Place, or to keep for him while he calls for them, and his Friend

One robbed of his Friend's Money, not chargeable for it, unless he has some Profit for the carrying or taking Care of it.

receives them to keep as he does his own, and it happens his Friend to whom he delivered them is robbed; in this Case the Friend shall not be answerable for the loss; but it is said where no such Caution is used, or Declaration made on the Receipt of them, he shall be chargeable.

Brook Tit. Detinue, 127 b. But I take the Law to be otherwise at this Day; and that if the Party to whom such Money or Goods is delivered, is to have no Consideration

sideration allowed him for his Trouble and Care, he shall not be responsible for the Loss if he be robbed, though no such Declaration be made: But whoever is to receive a Profit for the safe keeping or carrying Goods or Money, it is agreed shall be answerable for them if they miscarry.

Justice refusing to examine one that is robbed, an Action lies against him.

If my Servant is robbed, and goes to a Justice of Peace, and prays to be examined touching the Robbery, and the

Justice refuses to examine him, so that I am thereby damnified, and cannot proceed against the Hundred, I may have an Action against the Justice; for the Examination by him in this Case is not as Judge, but as a particular Minister by the Act appointed for this Purpose. The Case of *Green* against the Hundred of *Buckle-Church*, Trin. 31 Eliz. 1 Leon 323.

A Waggon seized in the Day, and robbed in the Night, the Hundred are chargeable.

If Robbers shall force a Coach or Waggon to drive out of the Way in the Day-time, and afterwards rob them in

the Night; this shall be deemed a Robbery in the Day, and an Action will lie against the Hundred. 1 Sid. 263. *Pleda versus the Hundred of Thistleworth.*

If a Highwayman sets upon a Person in one Hundred, and carries him into another Hundred and robs him, the Action shall be brought against the first Hundred. 1 Sid. 367.

One seized in one Hundred and carried into another and robbed, the first is chargeable.

An Action was brought upon the Statute of *Win-*
ton; the Defendants pleaded, That they made Hue and Cry, and that within forty Days they took one *Dudley*, which was one of them that did the Robbery, and had him in Custody. The Plaintiff replied, That *Dudley* was not taken upon their fresh Pursuit,

One of the Robbers taken within forty Days, the Hundred discharged,

Though not taken up on their Pursuit.

Modo & forma. Upon this Issue, the Jury found that the Hundred made the Hue and Cry; and that Sir *Joseph Ash* finding *Dudley* in the Presence of Sir *Philip Howard*, Justice of Peace of *Westminster*, at his House in *Westminster*, the said Sir *Joseph* being an Inhabitant of the Hundred of *Chisleworth* where the Robbery was, charged *Dudley* with this Robbery before Sir *Philip*, who promised he should appear at the Sessions at the *Old-Baily*. By the Opinion of *Hale Ch. Justice*, *Twisden*, *Mainsford* and *Moreton*, Judgment ought to be given for the Defendants; for the

C

charg-

charging of *Dudley* with the Robbery in the Presence of a Justice of Peace, was clearly a Taking within the Statute. It was observ'd, the Statute of *Winton* doth not say, shall take, but shall answer the Bodies of the Offenders; and therefore, if the Felon be taken upon another Account, and the Country finding him in Prison, cause him to be indicted, this satisfies the Statute. *1 Ventr. 118, 235.*

Robbery must be in the Highway to entitle the Party to his Action.

The Robbery must be in the Highway to entitle the Party to an Action, and it must be in the Day Time; but these

Particulars need not be averred in the Declaration. *Shower, 60.*

What shall be called fresh Suit.

Fresh Suit upon a Robbery, has no certain Definition; but it is now

settled, That it shall be determined by the Discretion of the Justices. *Kelynge, 96.*

Restitution to be awarded the Prosecutor, though sold in open Market.

Where the Thief is convicted at the Suit of the Party robbed, he shall have Restitution of his Goods, al-

though they have been sold in open Market: And where Horses are stolen, and sold in open Market, and the Owner claims them again within six

Horses to be restored on paying prime Cost.

Months,

Months, and pays the Buyer as much as they cost him, he shall have them again without Prosecution. 31 El. cap. 12.

Note, If Goods be stolen and not waived in flight, nor seized by the King's Officers, the Party robbed may take his Goods again, or bring his Action for them, although he doth not prosecute, if they have not been sold in open Market. But if the

Goods not sold, &c. the Party may take them, or bring his Action for them, tho' he doth not prosecute, unless waived.

Goods be waived by the Thelon in his Flight, or if they are seized by the King's Officers, there the Party shall not have Restitution unless the Thief be convicted at his Prosecution: And in such Case, the Party shall have Restitution only for such Goods as are expressed in the Indictment. Kelynge, 48.

Prosecutor to be restored only such Goods as are in the Indictment.

A Sale to a Broker within the Bills of Mortality is not deemed a sale in open Market: And if they refuse to shew any such Goods sold or pawned to them, they forfeit double the Value. 1 Jac. 1. c. 21. And the Party robbed may have his Action against them for the Goods, whether he

Sale to a Broker, does not alter the Property.

Penalty on Brokers concealing Goods.

prosecute the Felon or no; for the Property remains in the Owner notwithstanding such Sale. *Kelynge*, 50.

Township amerced, where one is killed in the Day-time.

If any Man be slain in the Day-time, and the Felon not taken, the Township shall be a-

merced. *Kelynge*, 5.

Notice of a Robbery to the next Village, though in another County, sufficient.

In a Robbery committed at *Shelly and Ridge* in the County of *Hertford*, Hue and Cry, and Notice of the Robbery

was at *South-Mimms* in the County of *Middlesex*, but near the Hundred where the Robbery was committed; and it was resolved, That this was good Notice tho' in another County. *Cro. Car.* 41. 379.

Oath before a Justice in London, whose Residence is in the Hundred where the Robbery was, is sufficient.

One being robbed in *Berkshire*, made Oath before *Saunders* a Justice of Peace, and Inhabitant of the same County and Hundred where

he was robbed, within twenty Days before the Writ brought according to the Statute: But this Oath was administered and taken in *London*, and held, That the Direction of the Statute was well pursued. *Cro. Car.* 211. But Sir *David Dalrymple's* Case at *Bedford* Assizes differed some-

Something from this; for he took his Oath before Mr. Farrer, a Justice of Peace of Bedfordshire in London: It was shewn at the Trial, That Mr. Farrer was commorant in London, and kept no House or Servant in Bedfordshire, and therefore in no Sense could be deemed Resident there; whereupon Sir David was nonsuit.

But if the Justice have his Residence in London, tho' a Justice of Peace of that County, it is otherwise.

By 4 & 5 W. & M. cap. 8. Every Person who shall apprehend one or more Highway-men, and prosecute them until they be convicted, shall have from the Sheriff of the County, where such Conviction shall be, without paying any Fee, 40*l.* within a Month after such Conviction, and Demand thereof, made by Certificate under the Judge's Hand before whom such Conviction shall be. And if any Dispute arise between the Persons apprehending such Felons, touching their Right to the said Reward, the Judges certifying, shall in their Certificate direct the Reward to be paid amongst them, in such Proportion as they shall think reasonable: And if any such Sheriff shall die or be removed before the End of the Month, the Reward being unpaid, the

40 l. Reward for taking a Highway-man.

Succeeding Sheriff shall pay it within the Month after Demand and Certificate as aforesaid; the Sheriff in Case of Default of Payment, shall forfeit double the Sum to the Persons to whom such Reward is due.

Person killed in taking a Highway-man, his Executors shall have his Share.

If any Person shall happen to be killed by such Highway-man, endeavouring to apprehend him, his Executors or Administrators, upon Certificate under the Hand and Seal of a Judge of Assize for the County, or of the two next Justices of Peace, shall receive the said Sum of 40 l. And in Failure of Payment shall recover double the Sum, with treble Costs of Suit as aforesaid.

And as a farther Reward, his Horse, Arms, Money, Goods, &c. taken about him.

Persons apprehending or convicting such Robbers, as a farther Reward, shall have their Horses, Furniture, Arms, Money, and other Goods taken with them. Provided, That this Clause shall not take away the Right of any Persons, from whom the same were before feloniously taken.

Proprietors Right saved.

One out of Prison discovering two of his Companions, intitled to a Pardon.

If any Person out of Prison shall have committed a Robbery, and shall

shall afterwards discover two or more Robbers who have committed Robbery, so as two or more of them shall be convicted, such Discoverer is hereby intitled to his Majesty's Pardon, which shall likewise be a good Bar to any Appeal.

By 2 E. 3. c. 3. it is enacted, That none shall go or ride armed in Affray of Peace, on Pain to forfeit their Armour, and to suffer Imprisonment at the King's Pleasure :

Persons may arm themselves and their Servants for their Defence in Travelling, notwithstanding the Statute.

And that all the Justices of Peace, Mayors, Bailiffs, Constables, &c. shall have Power to execute this Act : This was enforced by 7 R. 2. cap. 13. and 20 R. 2. cap. 13. But at this Day it is held, That the wearing of Arms upon the Road is not within the Meaning of this Statute, unless it be accompanied with such Circumstances, as may reasonably create Terror ; and that Persons of Quality may arm their Attendants as well as themselves for their greater Security in Travelling.

Before I close this Head, I shall add a Word or two of Accessaries to Robberies, &c. together with some brief Notes concerning the Commitment and Trial of Offenders.

Anciently, if the Principal were acquitted, had his Clergy, or died before Attainder, the Accessary could not be arraigned; so neither, if the Principal stood mute.

Accessary.

And where there were more Principals than one, if any of them were acquitted, the Accessary was discharged. 2 *Inst.* 183. But,

By 1 *Annæ*, cap. 9. the Accessary may be proceeded against, although the principal Felon be admitted to his Clergy, pardon'd or otherwise deliver'd before Attainder.

By 5 *Annæ*, cap. 31. Persons who shall receive or buy stolen Goods, knowing them to be such, or knowingly harbour or conceal Felons, shall be deemed Accessaries,

And if the Principal cannot be taken, yet the Person buying stolen Goods, or receiving a Felon knowingly, may be prosecuted for a Misdemeanour, and punished by Fine and Imprisonment, or other corporal Punishment, as the Court shall direct; which shall exempt them from being punished as Accessaries, if the Principal be after convicted.

Action for a malicious Prosecution.

Where one is unjustly and maliciously prosecuted for Felony, and is acquitted, he may have his Action against

against the Prosecutor, as was the Case of the five *Frenchmen* in the Reign of King *Charles* the second, who recovered 400 l. Damages.

My Lord Chief Justice Hale in his *Pleas of the Crown*, p. 212. says, That the Prisoner ought not

Prisoner not to be loaded with Irons at his Trial.

to be in Irons at his Arraignment and Trial: But I suppose he means so loaded with Irons, as to put him to any Torture, and make him unfit for his Defence; for the common Practice is otherwise.

When the Prisoner pleads Not guilty, the Clerk joins Issue with him on the Behalf of the King, by

saying *Culprit*, by which is meant, *paratus est ve-*

Culprit, the Meaning of it.

dicare quod culpabilis est; *Prist* in French signifying the same as *paratus* in Latin.

In criminal Cases not capital, four Days ought to be given to move in Arrest of Judgment at

No Time for Arrest of Judgment in capital Cases.

least: But in capital Cases no Time is allowed, at least such has been the Practice of late Years.

By 31 Car. 2. c. 2. Persons committed for Felony or Treason, if not indicted the next Term or Sessions, shall be

Persons accused of Felony, and not indicted after two Sessions, to be discharged.

C s

bailed,

bailed, provided they Petition the Court the first Week of the Term, or first Day of Sessions, unless it appear upon Oath, that the Witnesses for the King cannot be produced so soon; and if they are not indicted the second Term or Sessions, they shall be intirely discharged.

Judge denying a Habeas Corpus, to forfeit 500 l.

If the Chancellor or any of the Judges, shall in the Vacation-Time upon View of the Copy of the Commitment, or Oath made that such a Copy was denied, deny a Writ of Habeas Corpus, he shall forfeit to the Party grieved 500 l.

Challenge.

Where one of the Jury has been upon the Grand Jury, it is good Cause

of Challenge.

Peremptory Challenges are allowed only in capital Cases: And by 22 H. 8. c. 4. a Felon can challenge but twenty peremptorily, though if he challenge more, he shall not be hanged; but his Challenge will be over-ruled, and he shall be put upon his Trial.

None can be challenged for Favour, where the King is a Party.

Criminal, where to be indicted.

Where a Person is struck or poisoned in one County, and dies thereof

thereof in another, the Indictment may be brought in the County where the Party dies. 2 & 3 Ed. 6. c. 24.

Persons apprehended upon Suspicion of Robbery, ought not to be committed by a Justice of Peace without Oath. *Trial of the five Frenchmen.*

Commitment of Offenders.

No Copy of an Indictment, or Counsel is allowed in Cases of Felony, unless some special Point of Law arise, and there Counsel may be granted. *Sidney's Trial, 7.*

No Copy of Indictment or Counsel allowed in Felony.

In criminal Cases which do not extend to Life or Member, Counsel is allowed as in *Tutchin's Trial*, and *Oates* might have had Counsel: And it was said there, That the Court shall be of Counsel for the Prisoner, where he cannot be allowed Counsel; but not where he may. *Vide Oate's Trial.*

In other Cases there may be Counsel.

Persons accused of Felony, who for want of Bail are to be sent to Prison, must be examined before the Justice of Peace before he commits them; and the Accusers must be bound over to appear and prosecute at the next Gaol-Delivery, whose Examination must be taken and committed to Writing within

Commitment and Examination.

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Commitment and Examination.

two Days at farthest, and certified by the said Justice, with the Bonds or Recognizances of the Accusers at the next Gaol-Delivery. *Stat. 2 & 3 Ph. & M. c. 10.*

The Examination of the Offender before the Justice, must only be subscribed by him, and not upon his Oath; but the Examination of others must be upon Oath. *H. P. C. 262.*

These Examinations, if the Party be dead, may be given in Evidence. *H. P. C. 263.*

Evidence. The Wife ought not to be produced as Evidence, either for or against her Husband. *Co. Lit. 6.* But in my Lord *Audley's* Case, his Lady was admitted an Evidence against her Husband.

Prisoner killed by the Gaoler's Cruelty. Where a Gaoler keeps his Prisoner in such Dures, that he dies by Reason of the Hardships, he is guilty of Felony; and therefore where a Prisoner dies, the Coroner shall sit upon him, and enquire how he came by his Death. *Co. 3 Inst. 91.*

Mute. A Person standing Mute, shall have pain fort & dure; but he forfeits no Land, nor is his Blood corrupted. *Evi-*

Evidence for the King shall be upon Oath, but not those for the Prisoner. *Evidence.*

One pardoned of Felony may be a Witness, but not one who has been convicted of Perjury and pardoned. *1 Vent. 349.*

One concerned in a Felony, may be a Witness against one concerned in the same Offence.

If the Indictment lays the Offence in one Place, and the Evidence prove the Fact at another Place in the same County, it maintains the Indictment. *H. P. C. 264.* *Of laying the indictment.*

A Prisoner may be arraigned and tried at the same Time in capital Crimes. Lord Russel's Trial, 29. *Arraignment and Trial at that same Time in capital Cases.*

The Prisoner may ask Questions while the Evidence is giving against him, and make his Observations to himself; but he cannot argue upon them till all the Evidence for the King is given. *Wake-man's Trial, 19.* *Evidence.*

A Criminal can demand no Time to prepare for Trial. *Rouse's Trial, 63.* *No Time allowed to prepare for Trial.*

And

And it will not be foreign to our Purpose under this Head, to enquire into the Nature of Deodands.

Of Accidents upon the Road.

Deodands, such Things as are the Occasion of a Man's Death.

Where a Person is killed by a Horse or other Animal, or by any Thing inanimate, such Things are called Deodands, and are to be disposed in pious Uses by the King's Almoner. 3 *Inst.* 57.

Or Things from whence one falls and is kill'd.

And not only Things actually in Motion, but such as a Person falls from, and happens to be drown'd, or otherwise killed by the Fall, (provided it be on Land or in any fresh Water,) are Deodands.

Petition of Parliament that Ships might not be Deodands, denied.

My Lord Coke in 3 *Inst.* cap. 9. recites Part of a Parliament Roll, wherein they petition the King, That if a Man or Boy happen to be drowned falling out of any Ship, Boat, or Vessel, they might not be accounted Deodands: Whereupon the King upon great Advice and Conference with the Judges, &c. made Answer, That the Ship, Boat or Vessel being upon the Sea, should not be adjudged:

adjudged a Deodand; but being upon a fresh River, it should be deemed a Deodand; this was in the 51st Year of Edward the third. And the like Petitions are found in other Rolls of Parliament; but they could never obtain an Alteration of the Common Law in this Case.
3 Inst. 58.

All Things which move and contribute to the Death of a Man, as well as the Thing which is the immediate Cause of his Death, shall be forfeited as Deodands.

All Things that move together, are forfeited as well as that which is the immediate Cause of the Party's Death.

As where a Tree is cut down, and falls on the Bough of another Tree which kills the Man, both the Bough and the Tree which fell upon it shall be Deodands; for they both moved unto, and were the Cause of his Death.

So where a Coach or Cart falls upon a Man and kills him, or if he

As Coach and Horses, &c.

be thrown out of a Cart and killed by the Fall, both the Carriage and the Horses which drew it shall be Deodands.

And in the former Case, where the Carriage falls upon the Person, the Loading shall be forfeited also, in Regard that contributed to

The loading also forfeited where it contributes to the Death.

his

his Death by crushing him the more. Where a Carriage is standing, and a Person climbing up the Wheel, happens to fall from it and is killed, there only the Wheel shall be forfeited: But it is not

Not material whether the Person killed is an Infant or grown Person.

material, whether the Person killed be an Infant under fourteen, or a grown Person, in Relation to the Forfeiture:

But anciently it was held, If the Person were under fourteen, the Thing that occasioned his Death, should not be forfeited. *Co. Inst. 57.*

Horse or other Beast that kills a Man, is forfeited.

If a Beast strike or gores a Man so that he dies, the Beast shall be a Deodand; and although

the Owner sell him after the Wound given, and before the wounded Person die, yet the King's Officers may seize him as a

Deodand. And a Sword or other Weapon whereby a Man is killed are accounted Deodands,

A Weapon whereby one is killed, is forfeited, tho' borrow'd.

and shall be forfeited, although the same was borrowed, and did not belong to the Person who used it.

A Bell or any Thing fixed to the Freehold, cannot be forfeited.

But no Bell, Mill, Wheel or other Thing fixed to the Freehold, are ac-

counted Deodands at this Day, unless they

they were severed before the Accident happened.

Where one falls from a Hovel or Rick of Grain and is killed, the Hovel or Rick shall be forfeited.

One killed by a Fall from a Stack of Grain, it is forfeited.

If one falls from a Horse and beats out his Brains against a Piece of Timber, the Horse shall be a Deodand, but not the Timber on which he fell.

The Thing one falls upon, is not forfeited.

The Lading of a Vessel from which one falls in fresh Water and is drowned, shall not be forfeited although the Vessel it self be.

Lading of a Ship not forfeited.

Where one riding over a River, is carried away and drowned by the Violence of the Stream, the Horse shall not be forfeited, because the Stream, and not the Horse, is interpreted to be the Cause of his Death.

One drowned by the Stream, the Horse is not forfeited.

When the Coroner's Inquest find a Man died by such an Accident, the Thing which occasioned his Death, shall be appraised by the Inquest; and if it be disposed of so as it cannot be found, the Sheriff may levy

Coroner's Inquest to appraise the Deodand.

levy the Value of it, on the Town or Place where the Accident happened.

If the Party live a Year, nothing is forfeited.

If the Party wounded do not die of the Wound within a Year and a Day after he received it, the

Thing which occasioned it shall not be forfeited.

The Case of the Lord of the Manor of Hampstead. A Cart

Where several Things move and contribute to the Death, they are all Deodands.

met a Waggon laden upon the Road, and the Cart endeavouring to pass by the Waggon,

was driven upon a high Bank, and overturned, and threw the Person that was in the Cart just before the Wheels of the Waggon, and the Waggon run over the Man and killed him. In the Home Circuit this was referred to Pollexfen C. Justice and Gregory: And they gave their Opinions,

As where one was thrown out of a Cart, and killed by a Waggon going over him, both Cart and Waggon are forfeited.

That the Cart, Waggon, Loading, and all the Horses were Deodands, because all moved *ad Mortem*. Pollex-

fen at first doubted concerning the Forfeiture of the Cart, but

looking into his common Place-Book, he grounded his Opinion upon this Case. One riding upon a Horse in a River, the Horse threw him, and the Stream carried

ried

ried him to a Mill, and the Wheel of the Mill killed him; and it was adjudged, That the Horse and the Wheel were forfeited: But if a Man is thrown from his Horse by the Violence of the Stream, then the Horse is not forfeited according to the Case in 2 Cro. 483. Lord Chandois's Case, *Salkeld's Reports* 220. Tit. *Deodands*.

3. I shall now proceed to treat of Nuisances in Highways, and of the Repairs of Highways so far as the Traveller is concern'd in them, and of proper Remedies to be taken where the Traveller is hurt or obstructed in his Passage.

C H A P. III.

Of repairing Highways, and of Nuisances therein.

EVERY Parish of common Right ought to repair their Highways, and no Agreement with any Person whatsoever can take off this Charge. 1 Vent. 90.

Every Parish to repair their Highways.

If .

*What shall be deemed
a Highway.*

If a Way leads to a Market, and is a Way for all Travellers, or where a Way communicates with the great Road, it shall be deemed a Highway; but if it lead only to a Church, a private House or Field, it is to be accounted a private Way. *1 Vent. 189.*

*Three Kinds of Ways,
any of them deemed
Highways, and for a
Nusance in them an
Indictment lies.*

Sir Edward Coke distinguishes Ways into three Sorts; 1. A Footway. 2. A Horse-way. And 3. A Cartway, Ca

Lit. 56 a. Any of these Ways may be called a Highway, if they lead from Town to Town and are common to all People; and a Nusance in any of these, is inquirable in the Court-Leet or Quarter-Sessions: But a Way to a Parish Church, or to the common Fields of a particular Parish, or to a House which terminates there, and is for the Benefit

*Private Way one is
disturbed in, the
Parcy grieved shall
have an Action on the
Case.*

of particular Persons, this is denominated a private Way, and whoever has a Right to pass that Way, may have his

Action on the Case against any Person who obstructs or incommodes his Passage, but an Indictment will not lie. *Ca Lit. 56.*

A Highway cannot be changed without the King's Licence, obtained on a Writ of *Ad quod*

Highways not to be chang'd but by a Writ of Ad quod damnum.

damnum, and an Inquisition thereupon found, that it will not be prejudicial to the Publick. *Cro. Car.* 267. Generally the Charge of repairing the Highways, is to be born by the Occupiers of the Lands in the Parish where they lie: But where a Proprietor of Lands adjoining to the Highway, shall inclose

Persons inclosing against the Highway, liable to repair it.

on both Sides thereof, he shall keep the Way between the Inclosures in good Repair himself. *1 Sidenfin* 464. And it is there said, That if a Man inclose but on one Side of the Highway, he shall repair half the Way: But in all Cases where a Person is bound to repair a Way by Reason of Inclosure, he may be discharged from repairing it when he lays it open again. *1 Sid.* 464.

Also a particular Person or Corporation, may be obliged to repair a Highway by Prescription. *Brook Tit. Prescription*, 78.

Private Person may be obliged to repair a Way by Prescription.

An Indictment was referred against the Inhabitants of *Mile-end* in the Parish of *Stepney*,

The Parish at large, and not a Hamlet alone, to repair the Highways.

for

for not repairing a Highway; and Exception was taken, That *Mile-end* was but a Hamlet within the Parish, and a Hamlet cannot be charged to the Repair of a Highway, unless it be by Prescription: for of common Right, the whole Parish is charged with it; the Exception was allowed and the Indictment quashed. *Mich. 1649. B. R. Style 163.*

Where many are obliged to repair, any one of them may be prosecuted for their Neglect.

If a Manor is held by the Tenure of repairing a common Bridge or Highway, and that Manor afterwards comes

to be divided into several Hands, every one of the Alienees are liable to the whole Charge, and shall contribute among themselves; and that although the Lord upon the Alienation of one Part did agree to discharge the Purchaser; and the Charge continues although it comes to the Crown. *Regina versus the Dutches of Bucklugh & al. Pasch. 3 A. B. R. Salkeld, 358.*

Distingas ad infinitum, till the Way is repaired.

ed ad infinitum.

County to repair public Bridges.

Where Inhabitants submit to a Fine, they must also repair the Way, or a *Distingas* shall be awarded.

Ibid. If a private Person build a Bridge which becomes a publick Convenience,

venience, County is bound to repair it.
Salkeld, 359.

Where a Person stops
up the Highway, one
cannot have an Action
on the Case against him, without shew-
ing some particular Damage received.
Brook Tit. Chimin, 136.

*Case will not lie for
obstructing a Way.*

The King is not enti-
tled to any Profits in
the Highway, but only
passage for him and his People; but the
freehold and all the Profits, as Trees,
&c. are in the Lord of the Soil. And
where one will justify
passing such a Way, he
must shew, that it is the
King's Highway, and that it has been so
time out of Mind. And the Plaintiff
may reply, That People passed there on-
upon Licence, and that Money was
requently given to obtain such Licence.
Brook Tit. Chimin, 136.

*Lord, entitled to the
Profits of the Way.*

*How to justify pas-
sing such a Way.*

It is a Nufance at
common Law to erect
Gate in a Highway,
suffer the Ditches to be foul, or Boughs
Trees to hang over the Road so as to
commode Travellers. 8 H. 7. 5. b.

*Nufances in High-
ways.*

By the Common Law,
persons who are com-
pellable to repair Bridges

*How Bridges are to
be repaired.*

are

are bound to make them of such Height and Strength, as shall be sufficient for the Course of the Water; and they may enter on the Lands adjoining, and lay thereon Materials for the Repairs and are not punishable as Trespassers Dalton, cap. 14.

The County generally obliged to repair common Bridges;

such Charge may be cast upon a Corporation, or other private Persons, in Respect of some special Tenure, &c. But

And not the Proprietors of the Lands adjoining.

repair them. 2 Inst. 700.

Any Inhabitant of a County may be indicted singly for a Defect in the Repairs of a Bridge.

ed singly for not repairing it, and is liable to pay the whole Fine assessed by the Court for the Default of such Repairs and he is left to his Remedy at Law for Contribution from those who ought to bare a Share. Poph. 152. 2 Inst. 700.

Generally the Charge of repairing Bridges, lies upon the County where in they are situate: But

Persons who have Lands on either Side such Bridges, are not bound of common Right to

Any Inhabitant of a County, or Tenant of such Lands as are chargeable with the Repairs of a Bridge, may be indicted

By 22 Hen. 8. cap. 5.
Four Justices of the Peace, (*Quor' un'*) may in their Sessions inquire, hear, and determine the Annoyances of Bridges, and of the Highways adjoining within 300 Foot next to the Bridges; and charge such as ought to repair them by sending out Process, and inflicting such Pains as they shall think fit.

Four Justices may inquire of the Repairs of Bridges.

Defects in Repair of Bridges, can be presented in the County only where they lie; and no Presentment nor information shall be removed before Traverse and Judgment thereupon. 22 Car. 2.

Presentment must be in the proper County.

When it cannot be known what Precinct ought to repair such common Bridge, it shall be repaired by the County, Riding or Corporation within which it is situate; and if it happen to be situate in two such Precincts, the inhabitants shall repair their respective parts.

Where Counties shall join in the Repairs.

The Act of 22 Hen. 8. extends only to Bridges in the Highway, where all people have a Right to pass, and not to private Bridges to Mills, &c. 2 Inst. 701.

One was indicted for stopping *communem viam* *destrem ad Ecclesiam de*

Indictment will not lie for a Nuisance in a Church-Path which terminates there.

D

Wisby,

Witby ; it was removed into B. R. by *Certiorari* ; and the Court were moved to quash it, for that an Indictment will not lie for a Nuisance in a Church-Path, but a Suit might be in the Ecclesiastical Court ; Besides the Damage is private and concerns only the Parishioners. And

Case must be brought for an Obstruction in a private Way.

where there is a Foot-way to a Common, every Commoner may bring his Action if he is stop-

ped, but there can be no Indictment. Hale said, If it were alledged to be *Communis via pedestris ad Ecclesiam pro Parochianis*, the Indictment would not have been good ; but for ought appeared, this was a common Foot-way and might lead farther ; and it being laid *ad Communis nocumentum*, a Rule was made, that he should plead to it. 1 Vent. 208.

Sufficient to shew Possession of a House to which a private Way belongs.

In an Action on the Case for stopping of a Way ; the Plaintiff declared, That he was possessed of and inhabit-

ed a certain Messuage, and that he had a Foot-way belonging to the said Messuage over the Defendant's Ground, and that the Defendant stopped it up *ad damnum, &c.* The Court held the Declaration to be sufficient, and that he need not prescribe

prescribe for the Way, it being but a possessory Action: 2 Vent. 186.

An Action was brought against the Master of a Ferry for not keeping a boat, by Means whereof the Plaintiff could not

Action will not lie for not keeping up a common Ferry, but Indictment will.

pass and repass about his Affairs: But it was resolved by the Court, That here being no particular Damage, an Indictment was the proper Remedy; for it being a common Passage for all the King's Subjects, it is no other than a common Highway, and the Defendant is as liable to be indicted for not keeping up the Ferry, as for not repairing a Highway, which he is obliged

ratione tenuræ:

at where the Inhabitants of a particular Vill are exempt from paying, and a Ferryman extorts money from an Inhabitant,

Case will lie against a Ferryman, taking Money of Inhabitants who are exempted from paying.

such Inhabitant may have his Action by Reason of the particular Damage. Shower, 255.

In Replevin the Defendant avowed the taking of a Cup, as a Fine for a Distress towards repairing the Highway.

The King cannot exempt Lands from being charged to the Repairs of a Highway.

The Plaintiff replied and set forth a warrant from the King whereby his Lands

were exempted from that Duty: And it was resolved, That Lands cannot be exempted by such Grant. Judgment for the Avowant. *Brett versus Whitecott*, 3 *Mod.* 96.

Occupier of a ruinous House on the Highway, indicted for a Nuisance.

An Indictment was preferred for not repairing a House standing in the Highway which the Defendant occupied; (it was so ruinous as rendered it dangerous to Travellers) and a special Verdict was found, *viz.* That the Defendant occupied the said House, but was only Tenant at Will. *Per Cur'*, The Defendant is answerable to the Publick as he is Occupier; for the House was a Nuisance as it stood, and the continuing the House in that Condition was a Continuance of the Nuisance. And as the Danger is the Matter which concerns the Publick, the Publick are to look to the Occupier. *Salkeld*, 357. *Regina versus Watts*.

Navigable River, a Highway.

Every navigable River is a Highway, and the Subject has a Right to pass, and generally to fish in all navigable Streams. *ibid.* 357.

Indictment for laying Timber, &c. in Highways.

If any Thing be laid in a Highway, as Timber, &c. or if a Pit or Ditch be dug there, so

as to hinder or incommode the Traveller in his Passage, the Offender may be indicted or presented at the Leet: But the Traveller cannot bring his Action against him, unless he receive some particular Damages; as where he himself, his Servants or Cattle are hurt thereby, and then he is intitled to his

Action on the Case against the Person who occasioned it by such Obstructions as aforesaid. Co. Lit. 56. Cro. Jac. 446.

Action will not lie but where one receives a particular Damage.

Cro. Eliz. 664.

Where a Traveller receives any special Damage by the Badness of the Roads, and a Corporation or private Person is bound to repair it, he may have an Action on the Case for the Damage he receives: But if it belong to a Township, &c. not corporate, he can have no Action

Where an Action will lie for Damage received by the Badness of the Roads.

And where only an Indictment.

for the special Damage, but they are liable to be indicted, &c. Vau. 340. Cro. Eliz. 664.

A Beast escaped from the Owner, and fell into a Pit dug in the Common, about 36 Foot from the Road, and was

No Action will lie for Damage received by a Pit dug out of the Highway, unless the Party have Right of Common there.

killed; it was held, That the Owner could

could not maintain an Action against the Person who dug it, because he or his Cartle had no Right to be there : But if he had had Right of Common in the Place, he might. *Cro. Jac.* 158.

How broad Highways were anciently.

By the Statute of *Winchester*, cap. 15. Highways leading from one Mar-

ket-Town to another, ought to have been 200 Foot broad to prevent Robberies : But this Act is obsolete, as may be observed from 3 & 4 *W. & M.* where the

Cart-ways now to be eight Foot broad.

Surveyors are enjoined only to make the Cart-ways leading to Market-

Towns eight Foot wide, and level. And that no Horse-Caufway in any publick Highway, should be less than three

Horse-Caufway three Foot.

Foot in Breadth.

Appeal to the next Sessions after the executing a Writ of Ad quod damnum, final.

As has been already observed, a Highway cannot be changed without the King's Licence obtained on a Writ of

Ad quod damnum; but there having arisen some Disputes concerning the Legality of the Proceedings on such Writs, it was enacted by 8 & 9 *W.* 3. That where a Highway should be inclosed after a Writ of *Ad quod damnum* issued, and Inquisition

tion taken thereupon, any Person aggrieved by such Inclosure might make his Appeal to the Quarter-Sessions next after such Inquisition taken, which should finally hear and determine such Appeal: And if no such Appeal

were made, then the said Inquisition and Return entered and recorded by the Clerk of the Peace

of such County, at the Quarter-Sessions, should be for ever afterwards binding to all Persons whatsoever.

If no Appeal be made at the next Sessions, there can be none afterwards.

In an Indictment for setting up Posts and Rails in the Highway, it is necessary to prove,

Indictment for setting up Rails in a Highway.

That the Person indicted, or his Agents, actually set them up; for a Continuation of them, or the not suffering them to be removed, will not maintain the Indictment. 1 Vent. 183.

By 5 Eliz. c. 13. It is enacted, That all Fences, Dikes, and Hedges next adjoining to any

Hedges and Ditches in the Highway to be kept in Order.

Highway, shall be diked, scoured, repaired, and kept low by the Owner of the Soil on either Side.

By 18 Eliz. c. 10. Whoever shall neglect to repair their Fences, Ditches

10 s. Forfeiture for
Neglect.

and Hedges as afore-
said, shall forfeit 10 s.
to be levied by the Sur-

veyors.

By 3 & 4 W. & M. c. 12. it is enacted,
That if any Owner or Oc-
cupier of Lands adjoining
to a Highway not 20 Foot
broad, shall neglect to cleanse his Ditches,
Drains, &c. adjoining to the said High-
ways, and carry away the Earth thrown
out, and to lay Trunks and Bridges
where any Cart-ways are, into the said
Grounds, ten Days after Notice by the
Surveyor, he shall forfeit 5 s.

Hedges not to hang
over the Highway.

And farther, That
such Persons shall keep
their Hedges cut, plash'd
or prun'd, so that no Tree, Bush or Shrub
shall stand or grow in such Highway, nor
Bough or Branch be suffered to hang
over the same or any Part thereof; but
the said Hedges shall be kept cut, and
prun'd right up from the Roots, and not
permitted in any Sort to spread into, or
hang over the Highway, that there may

Or Branches of Trees
so as to incommode
Travellers.

be a free and clear Pas-
sage for Travellers, and
all Sorts of Carriages
loaden, without being
any Ways prejudiced or obstructed by any
Hedges, Trees, Boughs or Branches what-
soever,

never, and that the Sun may freely shine into the said Ways to dry and amend the same.

And no Person shall lay in a Highway not twenty Foot broad, any Matter whereby the same may be obstructed or annoyed on Pain to forfeit 5 s.

Persons laying any Thing in Highways, forfeits 5 s.

If any Timber, Stone, Hay, Straw, Stubble or other Matter for making Dung, or any other Pretence, shall be laid in any Highway, the Possessors of the Lands next adjoining, may remove and dispose of the same to their own Use.

Occupiers of Lands adjoining, may take Stuff laid there to their own Use.

The Forfeitures by this Act, to be levied by Distress and Sale of the Offender's Goods, by Warrant from two Justices, which they are required to make upon the Oath of one credible Witness; one Moiety of the Forfeiture to go to the Informer, and the other to the Repairs of the Highways.

Forfeitures, how to be disposed.

By 7 & 8 W. 3. c. 29. Every Person who shall pull up, cut down, or remove any Post, Block, Grate, Stone, Bank of Earth or other Security made or placed for securing a Horse or Foot-

Horse or Foot Causeways destroyed.

*The Offender forfeits
20 s.*

Caufway in a publick Highway from Waggon, &c. shall upon

Complaint to any Justice of Peace where the Offence was, and Oath of one credible Witness, forfeit 20 s. one Moiety to the Surveyors, and the other to him who shall discover the same.

*Nuisances, which may
be punished by Indict-
ment and Fine at the
Sessions.*

Note, The Justices in their Sessions may by Fine, punish all Nuisances and Incroachments in the Highways;

as the erecting of Gates, laying Carrion in the Highway, overflowing the same by stopping a Water-course, digging Pits in the Highway or near it, so as to render the Passage dangerous, laying Timber or other Matter therein, &c.

And that the Highways might not be rendred impassable by such excessive Weights, as have of late Years been drawn in the travelling Waggon, several Acts have been made for preventing it. The last whereof, and in which the rest are recited, is 1 Geo. cap. 11. which enacts,

*No Carriage to be
drawn with more than
five Beasts at length,*

That no travelling Waggon, other than Carriages for Timber for Shipping, &c. shall be

drawn in any common Highway with above five Horses, Oxen, or Beasts in Length,

Length, under the Pains mentioned in the 6th and 9th of Queen

On Pain of 5 l.

Anne, viz. 5 l. for every

Offence, to be divided between the Surveyor of the Highway where the Offence is committed, for repair of the said Highway, and the Prosecutor, being a Parishioner : And that any Person may distrain or seize the Cat-

tle of a Person drawing with more than five Horses, &c. in Length, without a Warrant from

Any one may seize the Cattle of the Offender, and deliver them to the Surveyor.

a Justice of Peace ; but the Beasts so distrained, shall be delivered forthwith to the Surveyor of the Highways where the Offence is committed ; and if the said Penalty be not paid within three Days, then the Surveyor may by Warrant from one Justice, sell the said Distress, and deliver the Money raised thereby to the said Justice, who shall distribute it, one

Who in Default of Payment, may sell the same in three Days by Warrant from one Justice.

Moiety to the Surveyor for the Repair of the said Highway, and the other to the Prosecutor or Discoverer, rendring the Overplus to the Owner, the Charges being first deducted. But if the Offender shall immediately pay the said Penalty to the Person making the Distress, or to the Surveyor, &c. then the Person receiving

Money to be delivered to the Justice, and divided between the Surveyor and Prosecutor, in Pain of 20 l.

be levied as aforesaid.

If the Beasts distrained are not delivered to the Surveyor, he who seized forfeits 20 l.

the same shall deliver it to the next Justice of the Peace, to be by him distributed as aforesaid, under Pain of 20 l. to be levied as aforesaid.

If the Person distraining or seizing as aforesaid, do not immediately bring the Beasts so distrained, to the Surveyor of the Highways where the Offence was committed, he shall forfeit likewise 20 l. to be levied by Warrant from one Justice of Peace; and for want of a Distress, he shall be sent to Gaol, there to remain till the Penalty is paid, which shall be divided and applied as above.

Driver of a Waggon, liable to the Penalty of 5 l.

The Servant or Driver of a Waggon with more than five Horses, &c. at length, is made liable also to the Penalty of 5 l. to be levied and disposed as aforesaid.

Other Teams may assist up Hills or in bad Ways.

Provided, That where six Horses are not sufficient to draw up a Hill, or out of any foul Place, any Person may by the Consent of the Owner or Driver, add more Beasts from any other Cart, then travelling the Road, to help draw up the Hill or out of such foul Place.

C H A P.

CHAP. IV.

Of Trespasses.

WE come now to speak of such Trespasses as the Traveller may be induced to commit to avoid bad Ways, &c.

It has been resolved, *Where one may escape into the Lands adjoining, if the Road is foundrous.*
Where a Road lies thro' an open Field, and the Road is foundrous, the Traveller may justify his striking out of it, and going over the Lands adjoining, and that notwithstanding they are sown with Grain. In a Trial at Bar upon an Information against Sir Edward Duncombe, Trin. 10. Car. 1. B. R. Cro. Car. 366.

In Trespass the Defendant justified, That the Close (where) was adjoining to the Highway leading from such a Place to such a Place, and that he was driving his Cattle in the said Highway: And the Fences being down, which the Plaintiff and those whose Estate he hath bought to repair, the Cattle entred, and that

Cattle trespassed, the Fences being down, the Plaintiff shall not recover.

that the Defendant drove them out again immediately. The Plaintiff replied, That there was a sufficient Fence. It was held

*Owner of the Cattle
answerable for a Trespass
in an open Field.*

by *Danby and Littleton*,
That if Grain be growing
in a common Field,
near the Highway, and

the Beasts had fed there, the Defendant
should have rendred Damages; but it is
otherwise, where there ought to be an
Inclosure, and the Fences are down as in
the principal Case. And it was held by
Danby and Choke, That where one is dri-
ving Cattle upon a Road and they enter
a House, the Master of the House may

*Trespass for Cattle
entring his House.*

have an Action of Tres-
pass, although the Doors
are open; for a Man is

not bound to keep his Doors shut. *Bro.*

Tit. Trespass, 329.

*Hedge-Breaker an-
swerable for all the
Damages.*

Where one breaks a
Hedge and Cattle enter
there, and do considera-
ble Damage, the Person

who breaks it is answerable for all the
Damages. *Bro. Tit. Trespass, 179.*

*Horse may be distrain-
ed for baiting on a
Common by the Road-
side by any Commoner.*

If a Traveller shall
feed and bait his Horse
upon a Common conti-
guous to the Road, any
Commoner may distrain

his Horse, but not for every Petit Tres-
pass,

pass, only such *per quod Communiant in tam amplo, &c.* 9 Co. 113. 1 Brownl. 197.

Any Commoner may avow the taking of the Cattle of a Stranger Damage-feasant, tho' he cannot maintain an Action of Trespas. *Bro. Tit. Common, 35.*

If a Man detains my Beasts as a Distress, after sufficient Amends tendered, before impounding, he becomes a Trespasser;

Amends tendered before impounding, makes the Person impounding a Trespasser.

and where the Lord works an Estray or a Distress, he becomes a Trespasser. *Trials per Pais, 411, 412.*

It was held anciently, That where one rides over another's Ground, the Horse could not be distrained Damage-feasant with the Rider upon his Back.

Whether a Horse may be distrained, Damage-feasant with the Rider upon him.

Bro. Tit. Distress, 61. and Co. Lit. 47. but see 1 Siderfin 440. where it was said by the Chief Justice, That the Horse on which a Man is riding, may be distrained Damage-feasant, and led to the Pound with the Rider upon his Back: But it is without Dispute, if the Party to whom the Beast belongs, can get him off the Ground before the Owner of the Soil seizes him, he cannot distrain him after-

Cattle cannot be distrained for Damage-feasant after they are off the Ground.

wards,

wards, but is left to his Action; so is Co. Lit. 161. a. If a Man comes to distrain Cattle Damage-feasant, and actually sees them on the Ground; if the Person to whom they belong drives them off before they are taken, they cannot be distrained.

If it be found that sufficient Amends were tendred, the Plaintiff shall have his Damages.

If a Man distrains for Damage-feasant, and the Owner of the Cattle tenders sufficient Amends, which is refused, the Owner may replevy, and the Sufficiency of the Amends tendred shall come in Issue; and if it be found for the Plaintiff, he shall recover his Damages. Bro. Tit. Trespass, 73.

A Man's Person cannot be detained or imprisoned for a Trespass.

One cannot detain or imprison a Man's Person until he make Amends for a Trespass committed without lawful Process first obtained. F. N. B. 68. Old Book of Entries, 587.

Rescue where Distress is unlawful, may be before impounding.

Where one distrains Cattle without a lawful Cause, the Owner of the Cattle may rescue them before they are impounded, but a Stranger may not. 39 Ed. 3. 35 b. Salkeld's Reports, 247. If one distrains my Cattle without Cause; together with the Cattle of J. S. I may justify the Rescue of them all. Co. Lit. 47. b.

A Ser-

A Servant may be sued without his Master, who commits a Trespass by the Command of his Master. 3 Lev. 352.

Servant sued for a Trespass done by his Master's Order.

If one drives my Cattle into the Close and Emblements of *J. S.* *per quod* I am subject to

Trespasse may be against one who drives my Cattle into another's Ground.

the Action of *J. S.* I may have an Action on the Case against him. Cro. Car. 325. *Tiffin versus Winkfield.*

In Trespasse for breaking the Plaintiff's Close and spoiling his Grasse, &c. The Defendant pleaded, That in the Close where,

Person who ploughs up a Foot-way, cannot maintain Trespasse against one who makes another over the same Ground.

&c. Time out of Mind, there had been a Foot-way for all People in, by, and thro' the said Close until such a Day; and that such a Day the Plaintiff ploughed up the said Foot-way and sowed it with Corn, and that the Plaintiff before the Trespasse supposed, set out another Foot-way for all People, which since it had been laid out, had been used by all foot Passengers, by reason whereof the Defendant went in the said new Foot-way to such a Place, whereupon the Plaintiff demurred: But it was adjudged against him, because the Plaintiff did the first Wrong; and therefore the Court adjudg'd the Defendant's Plea was good by

by way of Excuse. *Mich. 6 Jac. 1. C. B. Horn and Widlake's Case, 1 Brown. 212.*

Not lawful to tie a Distress in the Pound.

Trespass for killing the Plaintiff's Horse, the Defendant justified for Damage-feasant, and says, he put the Horse in the common Pound, and that he jumped three Times out of the Pound, although it was of the usual Height, whereupon he tied him to a Post in the same Pound, and the Horse strangled himself. And upon Demurrer it was adjudged, the Plaintiff should recover his Damages; for where one impounds Cattle, he cannot justify the tying them in the Pound. *Bro. Tit. Trespass, 250. Sal-keld 248.*

Pound must be open, where the Owner of Cattle may give them Meat.

A Pound Overt is an open Place where the Owner may come at his Beasts without being a Trespasser, and where he may lawfully give them Meat and Drink while they are in the Pound. *Doctor and Student, c. 27. p. 232.*

And if they die, the Owner must bear the Loss, and is also liable to an Action of Trespass.

And if they die in such an open Pound, the Owner of the Beasts shall bear the Loss, and the Person on whom they trespassed, is notwithstanding entitled

titled to an Action of Trespass against the Owner. *ibid.* 233.

And altho' the Owner tender sufficient Amends, he cannot take his Beasts out of the Pound if Amends be refused, but he must replevy; and if it be found at the Trial,

Cannot rescue Beasts after impounded tho' he tender Amends, but must replevy and shall have Damage in Replevin if the Amends were sufficient.

That the Amends were not sufficient, the Person on whom they trespassed shall have Damages: But if

the Amends tendred were sufficient, then the Owner of the Beasts shall have Damages in the Replevin; but the

But the Owner cannot have Trespass for keeping them after Amends tendred, although they die in the Pound.

Person distraining, cannot be otherwise punished for keeping the Beasts in the Pound after such Tender and Refusal, no more than he shall if the Beasts die in the Pound, for want of Meat after such Tender and Refusal; for the Owner might have replevy'd and try'd the Sufficiency of the Amends. *Doctor and Student*, 233, 234.

Tender of Amends in Trespass, must be made before any Process taken

Tender of Amends must be before Process taken out.

out, or it will be no Excuse to the Trespasser. *1 Gro.* 192.

Where

Where the Distress escapes, when the Person distraining may have Trespass.

Where the Person distraining puts the Distress in a broken Pound, and the Distress escapes, he shall not have an Action for the same Trespass; for it was his Fault to put the Distress in such a Place; but if the Distress escapes without his Default; he may have an Action of Trespass. *Salkeld, 248.*

CHAP. V.

Of Land-Carriage.

I Now proceed to the Laws concerning Land-Carriage, and therein of Carriage and Passage by the Post.

The Master of a Stage-Coach, is not answerable for the Loss of the Passengers Goods. An Action on the Case was brought upon the Custom of the Realm, against the Defendants who were Masters of a Stage-Coach. And the Plaintiff set forth, That he took a Place in the Coach for such a Town, and that in their Journey, the Defendants by their Negligence lost a Trunk of the Plaintiff's: Upon Not guilty pleaded, it appeared upon the Evidence,

dence, That this Trunk was delivered to the Person who drove the Coach, and he promised to take Care of it, and that the Trunk was lost out of his Possession; and if the Masters were chargeable with this Action was the Question? *Holt* Chief Justice was of Opinion, That this Action did not lie against the Master, and that a Stage-Coachman is not within the Custom as a Carrier is, unless he takes a distinct Price for carrying of Goods as well as Persons, as Waggon with Coaches; and although Money be given to the Driver, yet that is as a Gratuity, and cannot bring the Master within the Custom; for the Master is not chargeable with the Act of his Servant, but when he acts in Execution of the Authority given by his Master, and then the Act of the Servant is the Act of the Master; and the Plaintiff was nonsuited. *Middleton versus Fowler, Salkeld, 282.*

If a common Carrier loses Goods he is intrusted to carry, a special Action on the Case lies against him on the Custom of the Realm, but not Trover. *Rolle's Abr. 6.* So of a common Carrier by Boat. *Noy, 114.*

Case lies against a Carrier for losing Goods, but not Trover.

*So against another
who takes Hire for
Carriage.*

If he be not a com-
mon Carrier, if he takes
Hire he may be charged
on a special *Assumpsit*.

Cro. Jac. 262. for where Hire is taken a
Promise is implied.

*Carrier robbed, is
chargeable.*

Where Goods are de-
livered to a Carrier, and
he is robbed of them,
he shall be charged and answer for them
by Reason of the Hire. *Hill.* 36 *Eliz.* *Wood-
leef* versus *Curtis*.

*Carrier deceived in
the Weight spoiled his
Horses, an Action lies.*

One brought Goods
to a Carrier, and war-
ranted them to be but
of such a Weight, and
they proved to be double that Weight, by
Means whereof the Carrier's Horses were
spoiled. In this Case it was held, That
the Carrier might maintain an Action on
the Case against the Owner; but it would
have been otherwise, if the Owner had
not warranted the Weight to the Carrier.
Cro. Jac. 386.

*Carrier chargeable,
though he is not ac-
quainted with the
Value of the Goods.*

One brought a Box to
a Carrier in which there
was a great Sum of Mo-
ney, and the Carrier de-
manded of the Owner
what was in it; he answered, it was fil-
led with Silks and such like Goods of a
mean Value, upon which the Carrier

took

took it and was robbed: And resolved, That the Carrier was liable to make it good; but if the Carrier had told the Owner, That it was a dangerous Time, and if there were Money in it he durst not take Charge of it, and the Owner had answered as before; this would have excused the Carrier. *Vid. 4 Co. Southcote's Case. 1 Ventr. 238.*

A common Carrier has Goods delivered him to carry to a certain Place, and a Stranger takes them out of his Possession, and converts them to his own Use; an Action of Trover and Conversion lies for the Carrier against the Person who took them: for the Carrier had a special Property in the Goods, and is liable to make Satisfaction for them to the Owner. *Trin. 15 Car. at Guildhall, ruled by Bramston Chief Justice, between Goodwin and Richardson on a Trial there.*

Carrier may have Trover for Goods he takes in to carry.

Upon Demurrer it was resolved by the Court, That where a Carrier brings an Assumpsit for the Carriage of Goods from York

Carrier to London ought to shew in what Parish and Ward he delivered his Goods, if he brings an Assumpsit for the Carriage.

to London; and in his Declaration avers, That he had carried them to London, he ought also to shew to what Parish

rish

rish and Ward he carried them, otherwise it will be adjudged to be ill. *1 Siderfin, 178.*

Carrier robbed may indict the Felon as for his own Goods.

Where Goods are stolen from a Carrier, he may prefer an Indictment against the Felon as for his own Goods; for though he has not the absolute Property, yet he has such a possessory Property, that he may maintain an Action of Trespass against any one who takes them from him, and the Indictment were good also if it had been brought by the real Owner. *K. Lynge 39.*

Action laid in London, and the Goods lost upon the Road, held well enough.

An Action was brought against a Carrier and laid in London, for losing Goods there, which were delivered to him at Beverley in Yorkshire to be carried to London. The Defendant pleaded, That he was robbed of the said Goods at Lincoln, *absque hoc* that he lost them at London; to which the Plaintiff demurred. The Court were of Opinion, That the Declaration was good, and that the Plea was naught in Substance: But if it had been good, the Traverse notwithstanding had been ill, because the Justification was not local; and Judgment was given for the Plaintiff, Seroggs Justice being

a contrary Opinion. *Barker versus Warren, Mich. 29 Car. 2. C. B. 2 Mod. 270.*

Debt upon a Bond

conditioned to deliver
forty Pair of Shoes with-
in a Month at *Holborn-
Bridge*, to *Henry Knight*

*Delivery of Goods to
the Carrier's Porter,
is a Delivery to the
Carrier.*

a common Carrier, for the Use of the
Obligee. The Defendant pleaded, That
in all that Space of a Month *Henry Knight*
did not come to *London*, but that on such
a Day at *Holborn-Bridge*, he delivered
forty Pair of Shoes to *A. G.* the Carrier's
Porter: To this Plea the Plaintiff de-
murred, and it was held, That a Deli-
very to the Servant was a Delivery to
the Master, and if Goods are delivered
to a Carrier's Porter and lost, an Action
will lie against the Carrier, and Judg-
ment was given for the Defendant.

In Trover on a special
verdict, the Case ap-
pear'd to be thus: The
Goods in the Declara-

*Goods cannot be di-
strained for Rent, that
are sent by a Carrier.*

tion mentioned were the Plaintiff's, and
him delivered in *London* to one *Richard-
son* to carry to *Birmingham*. *Richardson*
is not a common Carrier, but had of
him brought Cheese to *London*, and in
Return took such Goods as he could
for back Carriage at a reasonable
price: At his Return, he put his Wag-

E

gon

gon with these Goods into his Barn, where they continued two Nights and a Day, and then the Landlord distrained them for Rent due from *Richardson*; the House was not an Inn, but a private House: It was resolved by the Court, That Goods delivered to any Person exercising a publick Trade or Employment, to be carried, wrought or manag'd in the Way of his Trade or Employ, are for that Time under a legal Protection, and privileged from a Distress for Rent: And it was also resolved, That any Man

Any one carrying Goods for all Persons indifferently for Hire, deemed a common Carrier.

undertaking for Hire, to carry the Goods of all Persons indifferently, as in this Case, is as to this Privilege a common Car

rier; for the Law gives this Privilege in Respect of the Trader, and not in Respect of the Carrier. *Salkeld*, 249.

Carrier opening Packs and disposing of Part of the Goods, guilty of Felony.

Goods were delivered to a Carrier to carry to *Southampton*, and he carried them to another Place and there opened

Packs, and disposed of the Goods to his own Use, and resolved that this was Felony: And if one delivers Goods to a Porter in *London* to carry to a certain Place, and he carries them to another Place, and disposeth of them, it is Felony; but

break

breaking open the Packs and disposing of the Goods, is necessary to shew his Intent of stealing them : Yet if a Carrier carries Goods to the Place agreed on, and afterwards disposeth of them either entire or in Parcels, it is Felony, because the Agreement concerning the Carriage of them, was determined after he had brought them to the Place appointed; and then the Possession is in the first Owner. *Kelynge*, 82, 83. Note, These Felonies are not excluded from Clergy.

So is a Porter in London, who opens Parcels and disposes of the Goods.

But may have the Benefit of Clergy.

By 3 & 4 W. & M.

cap. 12. The Justices of Peace of every County at their Quarter-Sessions,

Justices at Easter to assess the Prices of Land-Carriage.

shall assess the Prices of all Land-Carriage, of Goods to be brought into any place within their Jurisdictions, by any common Waggoner or Carrier, and shall certify such Rates to the Mayors or other Chief Officers of every Market-Town;

and Waggoners or Carriers taking more than

Carrier taking more forfeits 5 l. to the Party grieved.

that shall be so assess'd, shall forfeit for every

such Offence 5 l. to be levied by Distress and Sale of Goods, by Warrant from two Justices, to the Use of the Party grieved.

Carriages for Soldiers to be provided by the Constables, on a Warrant from the Justices of the Peace.

And for the providing Carriages for the Soldiers Baggage, by 1 Geo. cap. 3. all Justices of Peace within their several

Counties, are upon an Order produced from his Majesty, &c. and shewn to them by any Officer of the Regiment then marching, required to issue out their Warrants to the Constables, &c. to make Provision of Carriages with able Men to drive the same, for such Forces in their March, allowing sufficient Time, that the neighbouring Parts bear not always the Burthen, and the Officers shall

The Rates to be paid per Mile by the Officers.

pay down in Hand to the Constable, 1 s. per Mile for every Waggon that travels with five Horses

1 s. per Mile for every Wain with four Oxen, or four Oxen and two Horses; 9d. per Mile for every Cart with four Horses and so proportionably for lesser Carriages. And the Constables shall appoint such Persons as they think proper to furnish such

Officer forcing a Carriage to travel above one Day's Journey, or suffering Soldiers, &c. to ride, or forcing a Constable to provide Saddle-Horses, &c. forfeits 5 l.

Carriages. And if any military Officer force any Carriage to travel above one Day's Journey and not discharge the same in due Time, or suffer any one to do there

therein, except sick and wounded Men, or force any Constable, &c. by Threats to provide Saddle-Horses, or shall force Horses from their Owners, he shall forfeit 5 l. Proof being made before two Justices, and it shall be deducted out of his Pay.

Constables, &c. neglecting or refusing to execute such Warrants, or any other Person hindring the Execution thereof, shall forfeit not exceeding 40 s. nor under 10 s. to the Use of the Poor of the Parish, to be decided by two Justices of the Peace, and the Penalty to be levied by Distress and Sale.

Penalty on Constables neglecting to provide Carriages.

The Treasurer of the County shall pay the Constables all reasonable Sums laid out for Carriages, above

Treasurer of the County to reimburse the Constable all further Sums laid out for Carriages.

what is paid by the Officer, out of the publick Stock, according to the Justices Direction; Regard being always had to the Season of the Year, &c. and if the publick Stock be not sufficient, the Justices may raise the Money as for County-roads and Bridges.

*Waggon not to carry
above twenty Hun-
dred.*

No Waggon shall be obliged to carry above twenty hundred Weight by Vertue of this Act.

*Carrier travelling on
Sundays, to forfeit
20 s.*

By 3 Car. cap. 1. it is enacted, That no Carrier with his Horse, Waggoner with his Wag-

gon, Carman with his Cart, Wainman with his Wain, or Drover with his Cattle, shall travel upon the Lord's-Day, upon Pain of 20 s. for every such Offence, one Third whereof may be allowed the Prosecutor: Such Penalty may be levied by Distress, by Warrant from one Justice. Conviction may be by View, Confession, or two Witnesses; and Prosecution must be within six Months.

*Drovers, Higlars, &c.
travelling on Sun-
days, forfeit 20 s.*

By 29 Car. 2. cap. 7. it is enacted, That no Drover, Horse-Courser, Waggoner, Butcher,

Higgler, or their Servants, shall travel on the Lord's-Day, on Pain to forfeit 20 s.

*Conviction by one Wit-
ness.*

Conviction may be by View or one Witness; the Penalty to the Use

of the Poor where the Offence is committed, save that one Third may be allotted to the Informer.

By

By 7 & 8. W. 3. cap. 8.
it is enacted, That no
Wooll, Wooll-felts, Mort-
lings, Shortlings, Yarn
made of Wooll, Wooll-
flocks, Fuller's-Earth, or
scouring Clay, shall be
carried or conveyed by

*Wooll, Fullers-earth,
&c. carried in Wag-
gons or otherwise, be-
fore Sun-rise or after
Sun-set, within five
Miles of the Sea-
Coast, forfeited with
the Horses and Car-
riages.*

Land, to or from any Place in the Coun-
ties next adjoining to Scotland, or within
five Miles of any Sea-Coast, but between
Sun-rising and Sun-setting, under Pain of
forfeiting the said Commodities, and the
Horses and Carriages employed in carry-
ing the same.

Where a Corps is car-
ried to any distant Place
to be buried, and passes
through a Town, or is
rested all Night at an Inn upon the Road;
it cannot be stopped under Pretence of
Burial-Fees due to the Parish; nor can
such Fees be justly demanded from any
Place it passes through. Also a Custom

*Corps carried through
a Parish to be buried,
no Burial-Fees due.*

in London, That Burial-
Fees should be paid in
the Parish where the
Party dies, although he
is no Parishioner, and is

*Nor to a Parish
where one dies abroad,
and is carried Home
to be buried.*

carried into the Country to be buried,
was adjudged to be a void Custom in
Sir John Ferris's Case. And on a Suit in

the Spiritual Court by the Parish of St. Buttolph for these Fees, a Prohibition was granted. *Pasob. 15 Jac. 1. and Salk. 332.*

Carrier carrying Game, or having it in his Custody, unless he have it from a Person qualified, forfeits 5 l.

By 5 *Annæ, c. 14.* If any Carrier or Higler, shall have any Pheasant, Hare or other Game in his Custody, (unless such Game be sent by some Person qualified to kill Game) he shall be carried before some Justice of Peace where the Offence is committed, and on a Conviction by View, or the Oath of one Witness, he shall forfeit for every Hare, &c. 5 l. one half to the Informer, and the other to the Poor of the Parish where the Offence is committed; and for want of a Distress, he shall be committed to the House of Correction, three Months without Bail for the first Offence, and for every other Offence four Months.

Conviction to be within three Months.

50 l. Security to be given for Payment of Costs on a Certiorari.

Provided, That the Conviction be within three Months after the Offence: And if a Certiorari be allowed to remove the Proceedings, the Party before the Allowance shall be bound to the Prosecutors in the Sum of 50 l. with sufficient Security, upon Condition to pay the Pro-

Prosecutors, (within fourteen Days after Conviction or *Procedendos* granted) their full Costs to be ascertained on their Oaths; and in Default thereof, the Justices may proceed to execute such Conviction.

Any Person who has incurred any Penalty by destroying the Game, &c. and shall discover any Carrier or Higler,

A Partaker in the Offence may be Evidence against the Carrier, and shall have the Reward.

&c. that hath bought, sold, offered to Sale, or had any Game in his Possession; so as he may be convicted, the Discoverer shall be discharged of all Penalties, and receive the same Reward for the Discovery as another Informer.

The Justices of Peace in their respective Liberties, and the Lords of Manors in their respective Manors, are impowered to take away Hares and other Game from Carriers, Higlars, &c.

Justices may take away Game from Carriers, &c.

It will be expected in a Treatise of this Nature, that some Rules should be laid down, as to taking and giving the Way where Carriages or Horsemen meet; but to this the old Maxim is very applicable, *De minimis non curat Lex*; so that where a Coach and Waggon meet, or

where one Horseman meets two or more, or a loaded Carriage meets one that is empty, the Law has not *expressly* determined which of them shall give Way to the other, but leaves these Matters to be regulated in a great Measure by the Rules of Prudence and Humanity: But it may be laid down in general, That the Law is ever on the Side of that Person who is upon the Defensive, and that the Aggressor, he who makes the first Assault, will be in Danger of being cast in a Court of Law.

As if one Man rides against another who stands still, or drives his Waggon against a Coach, &c. and pulls it to Pieces, he will certainly be answerable for the Damage; nor will it avail him to say, the Rider or Driver refused to put out of the Way, where any Damage ensues.

To this it may be objected, That then it lies in the Power of any single Person to block up and obstruct the Passage of a Highway, by placing himself in the Middle of it, so as neither Carriages or Passengers can pursue their Journey.

It might be answered, That scarce any Man will be so fool-hardy, if we could suppose him so brutish and unreasonable to oppose himself singly to every Person and Thing he is liable to encounter in High

Highway, and hazard his being crushed by the Wheels of a Waggon, or dismounted by a superior Force. But it may be considered farther, That whoever stops or obstructs the Passage of a Highway, is liable to be indicted for it; and where a Person receives any particular Damage by being so hindered and obstructed in his Passage, he may maintain an Action on the Case against the Person who occasions it, as appears under the Title relating to *Nusances in Highways*.

But it will not be admitted in any civiliz'd Country, That private People shall take upon them to do themselves Justice, and to assault and beat down those who stand in their Way, how unreasonably and unjustly soever they may apprehend themselves to be dealt with.

Carriage by the Post.

Lane having Exchequer-Bills enclosed them in a Letter directed to one Jones at Worcester, and delivered it at the

Post-Office in London, into the Hands of one Breeze, who was appointed by the Defendants to receive the Letters, and had a Salary; the Letter was opened in the Office by a Person unknown, and the

Post-Masters not answerable for Bills enclosed in Letters, tho' taken out in the Post-Office.

Exchequer-Bills taken away ; and for this an Action on the Case was brought against the Defendants being Post-masters. *Turton, Gould, and Powys* Justices held, That the Action did not lie : 1. Because the Office is for Intelligence, and not for Insurance. 2. Because *Breeze* is an Officer, and he is liable. 3. It is impossible the Postmaster-General, who is to execute this Office in such distant Places, by so many several Hands, should be able to secure every Thing. 4. This is not a Conveyance for Treasure. *Holt* Chief Justice *contra* : He considered this as a Letter lost in the Office, and not upon the Road ; and he held, That the Postmaster-General is liable, because the Care of the whole is committed to him, and the rest are but his Deputies, and the Law makes the Officer responsible both for himself and his Deputies. 2. He has

Innkeepers, Carriers, &c. answerable for a Default in their Servants, although they caution against it.

a Reward which is the Reason in the Case of Inn-keepers, Hoymen, and Carriers, that they are bound to keep Goods

safely, answer all Neglects of those who act under them, and they would be so although they should expressly caution against it ; and although it be hard to charge a Carrier who is robbed, yet if he should not be charged, he might keep a Cor-

a Correspondence with Thieves, and cheat the Owner of his Goods: And when a Man takes upon him a publick Employment, he is bound to serve the Publick in that Employment, or an Action lies against him for refusing; so where a Farrier refuses to shoe a Horse, an Inn-keeper to receive a Guest, or a Carrier to carry Goods when they may do it, an Action lies against them for Refusal: But in the principal Case, Judgment was given for the Defendants. *Lane versus Cotton & al. Pasch. 12 W. 3. B. R. Salk. Rep. 17.*

Action lies against a Smith who refuses to shoe a Horse.

Against an Inn-keeper refusing to receive a Guest.

Against a Carrier refusing to carry Goods &c.

By 9 *Annæ*, cap. 10. it is enacted, That there shall be one General Post-Office in London, and one Postmaster-General to be made by Letters Patent; and he or his Deputy and Deputies, and no other, shall have the receiving and dispatching Letters in all Places within this Realm and without, where he shall settle any Posts, except Letters which concern Goods sent by common Carriers, and which shall be delivered with the Goods without any Profit

None to send or dispatch Letters but the Post-master, his Deputies, &c.

Except Letters by Carriers which concern Goods.

Profit for receiving or delivering them;
and except Merchants Letters and those

*And except Letters by
Shipping for which
no Profit is taken.*

of Masters of Ships, so
as such Letters be deli-
vered to the Persons to
whom they are directed

without receiving any Profit for them;
and except Commissions,

*Except Process of Law,
and except Letters
sent by Friends, &c.*

Affidavits, Writs, &c.
and any Letters sent by
private Friends in their

Journey, or by any Messenger about pri-
vate Affairs or Business.

*Carriers, Stage-Coach
men, Watermen, nor
their Passengers, to
carry Letters.*

Provided, That Car-
riers receive no Letters
but such as concern the
Goods they then carry,
and the Drivers of Stage-

Coaches, Masters of Passage-Boats, nor
Passengers in either, nor Watermen or
Bargemen, shall carry any Letters al-
though they receive no Hire or Reward
for the same.

*Where the chief Of-
fice shall be kept.*

The Postmaster-Ge-
neral may keep one Let-
ter-Office in *Edinburgh*,

another in *Dublin*, another at *New-York*,
and other chief Offices at convenient
Places in *America*, and in the *Leeward*
Islands, and appoint Deputies there.

The

The Postmaster-General and his Deputies, and no other Person shall provide Horses and Furniture for any Person riding Post, where any Post-Road shall be settled.

None to furnish Post-Horses but the Post-Master.

The Rates of Letters in the three Kingdoms.

He shall take for the Postage of every single Letter, not coming from or directed on Shipboard, and to and from any Place in *England*, not distant above 80 Miles from *London*, 3 *d.* and for every double Letter 6 *d.* and so proportionably for every Packet of Letters; and for a Packet of Writs, Deeds, or other Things, 12 *d.* per Ounce. For every single Letter above 80 Miles from *London*, 4 *d.* and for a double Letter 8 *d.* and for other Things 1 *s.* 4 *d.* per Ounce. For every Letter from *London* to *Edinburgh*, and from thence to *London*, and to and from *Dumfries* or *Corkburnspeth*, and between either of those Places and *Edinburgh* 6 *d.* and for every double Letter 12 *d.* and for other Parcels 2 *s.* per Ounce. For every single Letter from *Edinburgh* to any Place not exceeding 50 Miles in *Scotland* 2 *d.* and for a double Letter 4 *d.* and for other Parcels 8 *d.* per Ounce, and if above 50 Miles 3 *d.* and for a double Letter

ter 6 *d.* and for other Parcels 12 *d.* per Ounce. If above 80 Miles then for every single Letter 4 *d.* and for every double Letter 8 *d.* and for other Letters 1 *s.* 4 *d.* per Ounce. From *London* to *Dublin*, or from thence to *London*, for a single Letter 6 *d.* a double Letter 1 *s.* for other Parcels 2 *s.* per Ounce. For a single Letter from *Dublin* to any Place in *Ireland* not exceeding 40 *English Miles* 2 *d.* for a double Letter 4 *d.* and for other Parcels 8 *d.* per Ounce; if above 40 Miles, then for every single Letter 4 *d.* and for every double Letter 8 *d.* and for other Parcels 1 *s.* 4 *d.* per Ounce. For the Postage of Letters and Packets directed on Board, or brought from any Vessel riding or stopping in any Part in *England*, 1 *d.* over and above the said Rates; and for the Postage of all Letters and Packets passing by the Penny-Post, and to be received and delivered within ten Miles Distance from the General-Post-Office, 1 *d.*

Rates of foreign European Letters.

| | <i>s.</i> | <i>d.</i> |
|--------------------------------------|-----------|-----------|
| All Letters and Pac- | | |
| kets coming from any | Single | 0 10 |
| Part of <i>France</i> to <i>Lon-</i> | Double | 1 8 |
| <i>don</i> , | Treble | 2 6 |
| | Ounce | 3 4 |
| | | All |

Of Land Carriage.

89

s. d.

| | | | |
|---------------------------|--------|---|---|
| All Letters and Packets | | | |
| from London, thro' France | Single | 1 | 6 |
| to Spain and Portugal, | Double | 3 | 0 |
| Post paid to Bayonne, and | Treble | 4 | 6 |
| from Spain and Portugal, | Ounce | 6 | 0 |
| through France to London, | | | |

| | | | |
|------------------------------|--------|---|---|
| From London through | | | |
| France to Italy or Sicily by | Single | 1 | 3 |
| Way of Lyons, or to any | Double | 2 | 6 |
| Part of Turkey by Way | Treble | 3 | 9 |
| of Marselia, and from | Ounce | 5 | 0 |
| any of those Parts thro' | | | |
| France to London, | | | |

| | | | |
|----------------------|--------|---|----|
| From the Spanish Ne- | Single | 0 | 10 |
| therlands to London, | Double | 1 | 8 |
| | Treble | 2 | 6 |
| | Ounce | 3 | 4 |

| | | | |
|----------------------------|--------|---|---|
| From London through | | | |
| the Netherlands to Italy, | Single | 1 | 0 |
| Sicily, Post paid to Ant- | Double | 2 | 0 |
| werp, and from Italy or | Treble | 3 | 0 |
| Sicily through the Spanish | Ounce | 4 | 0 |
| Netherlands to London, | | | |

| | | | |
|----------------------------|--------|---|---|
| From London thro' the | | | |
| Netherlands to Germany, | Single | 1 | 0 |
| Switzerland, Denmark or | Double | 2 | 0 |
| Sweden, and all Parts of | Treble | 3 | 0 |
| the North, and from any | Ounce | 4 | 0 |
| those Parts through | | | |
| the Netherlands to London, | | | |

From

| | | s. | d. |
|--|--------|----|----|
| From London through the Spanish-Netherlands to Spain; Portugal and so back, | Single | 1 | 6 |
| | Double | 3 | 0 |
| | Treble | 4 | 6 |
| | Ounce | 6 | 0 |
| From the United-Pro- vinces to London, | Single | 0 | 10 |
| | Double | 1 | 8 |
| | Treble | 2 | 6 |
| | Ounce | 3 | 4 |
| From London through the United-Provinces to Italy, Sicily, and so back, | Single | 1 | 0 |
| | Double | 2 | 0 |
| | Treble | 3 | 0 |
| | Ounce | 4 | 0 |
| From London through the United-Provinces to Germany, Switzerland, Denmark, Sweden, and all Parts of the North, and so back, | Single | 1 | 0 |
| | Double | 2 | 0 |
| | Treble | 3 | 0 |
| | Ounce | 4 | 0 |
| From London through the United-Provinces to Spain and Portugal, and so back, | Single | 1 | 6 |
| | Double | 3 | 0 |
| | Treble | 4 | 6 |
| | Ounce | 6 | 0 |
| From London through the Spanish Netherlands or the United-Provinces to Hamburg, Post paid to Antwerp or Amsterdam, and so back, | Single | 0 | 10 |
| | Double | 1 | 8 |
| | Treble | 2 | 6 |
| | Ounce | 3 | 4 |

Of Land-Carriage,

91

| | s. | d. |
|------------------------|--------|-----|
| All Letters passing | Single | 1 6 |
| between London, Spain | Double | 3 0 |
| or Portugal in Packet- | Treble | 4 6 |
| Boats, | Ounce | 6 0 |

Rates of Letters in the Plantations.

| | s. | d. |
|----------------------------|--------|-----|
| From London to Ja- | Single | 1 6 |
| maica, Barbadoes, Antegoa, | Double | 3 0 |
| Montserrat, Nevis, St. | Treble | 4 6 |
| Christophers, and from | Ounce | 6 0 |
| any of these Places to | | |
| London, | | |

| | | |
|-------------------------|--------|-----|
| Letters and Packets | Single | 1 0 |
| from London to New-York | Double | 2 0 |
| in North-America, | Treble | 3 0 |
| | Ounce | 4 0 |

| | | |
|--------------------------|--------|-----|
| Letters and Packets | Single | 0 4 |
| from the West-Indies to | Double | 0 8 |
| New-York, and the like | Treble | 1 0 |
| from New-York to any | Ounce | 1 4 |
| Place within 60 Miles | | |
| thereof, and thence back | | |
| to New-York, | | |

From

| | | | |
|----------------------------|--------|----|----|
| From New-York to | | | |
| Perth-Amboy, the chief | | | |
| Town in New-Jersey, and | | | |
| to Bridlington the chief | | s. | d. |
| Town in West-Jersey, and | Single | 0 | 6 |
| from those Places back | Double | 1 | 0 |
| to New-York, to any Place | Treble | 1 | 6 |
| not exceeding 100 En- | Ounce | 2 | 0 |
| glish Miles, and from each | | | |
| of those Places to New- | | | |
| York, | | | |

| | | | |
|--------------------------|--------|---|---|
| From Perth-Amboy and | | | |
| Bridlington to any Place | Single | 0 | 4 |
| not exceeding 60 English | Double | 0 | 8 |
| Miles, and thence back | Treble | 1 | 0 |
| again, | Ounce | 1 | 4 |

| | | | |
|------------------------|--------|---|---|
| To any Place not ex- | Single | 0 | 6 |
| ceeding 100 Miles, and | Double | 1 | 0 |
| thence back again, | Treble | 1 | 6 |
| | Ounce | 2 | 0 |

| | | | |
|---------------------------|--------|---|---|
| From New-York to | | | |
| New-London, the chief | | | |
| Town in Connecticut in | Single | 0 | 9 |
| New-England, and to | Double | 1 | 6 |
| Philadelphia the chief | Treble | 2 | 3 |
| Town of Pennsylvania, and | Ounce | 3 | 0 |
| from thence back to New- | | | |
| York, | | | |

| | | | |
|---------------------------|--------|---|---|
| From New-London and | Single | 0 | 4 |
| Philadelphia to any Place | Double | 0 | 8 |
| not exceeding 60 English | Treble | 1 | 0 |
| Miles, and thence back, | Ounce | 1 | 4 |

Not

Of Land-Carriage.

93

| | s. | d. |
|--|--------|-----|
| Not exceeding 100 Eng- lish Miles, and so back, | Single | 0 6 |
| | Double | 1 0 |
| | Treble | 1 6 |
| | Ounce | 2 0 |

From *New-York* to
Newport the chief Town
in *Rhode-Island*, and *Pro-*
vidence Plantation in
New-England, and to *Bo-*
ston the chief Town in
Massachusetts-Bay in *New-*
England, and to *Port-*
smouth the chief Town in
New-Hampshire in *New-*
England, and to *Anapolis*
the chief Town in *Mary-*
land, and from every of
these Places to *New-York*,

| | | |
|--------|---|---|
| Single | 1 | 0 |
| Double | 2 | 0 |
| Treble | 3 | 0 |
| Ounce | 4 | 0 |

| | | | |
|--|--------|---|---|
| From <i>Newport</i> , <i>Boston</i> , <i>Portsmouth</i> and <i>Anapolis</i> , to any Place not exceed- ing 60 <i>English</i> Miles, | Single | 0 | 4 |
| | Double | 0 | 8 |
| | Treble | 1 | 0 |
| | Ounce | 1 | 4 |

To any Place not ex-
ceeding 100 Miles, the
same as from *New-London*
to *Philadelphia*, which see
before.

From

| | s. | d. |
|--|--------|-----|
| From <i>New-York</i> to <i>Sa-</i> | | |
| <i>lem</i> and <i>Ipswich</i> , to <i>Pis-</i> | | |
| <i>cataway</i> , and to <i>Williams-</i> | Single | 1 3 |
| <i>burgh</i> , the chief Office | Double | 2 6 |
| in <i>Virginia</i> , and from e- | Treble | 3 9 |
| very of those Places to | Ounce | 5 0 |
| <i>New-York</i> , | | |
| From <i>Salem</i> , <i>Ipswich</i> , | | |
| <i>Piscataway</i> and <i>Williams-</i> | Single | 0 4 |
| <i>burgh</i> , to any Place not | Double | 0 8 |
| exceeding 60 <i>English</i> | Treble | 1 0 |
| Miles, | Ounce | 1 6 |
| | | |
| Not exceeding 100 | Single | 0 6 |
| <i>English</i> Miles, | Double | 1 0 |
| | Treble | 1 6 |
| | Ounce | 2 0 |
| From <i>New-York</i> to | | |
| <i>Charles-Town</i> in <i>Carolina</i> , | Single | 1 6 |
| and from thence to <i>New-</i> | Double | 3 0 |
| <i>York</i> , | Treble | 4 6 |
| | Ounce | 6 0 |
| From <i>Charles-Town</i> to | | |
| any Place not exceeding | Single | 0 4 |
| 60 <i>English</i> Miles. | Double | 0 8 |
| | Treble | 1 0 |
| | Ounce | 1 4 |
| | | |
| To any Place not ex- | Single | 0 6 |
| ceeding 100 <i>English</i> Miles, | Double | 1 0 |
| | Treble | 1 6 |
| | Ounce | 2 0 |

Places where Posts are not settled beyond-sea, and which may be hereafter settled, must pay according to these Rates.

Rates where new Stages are erected.

Foreign Letters delivered at any Place between London, and any of the Ports from whence the Packet-Boats sail, must pay the same Rates as if conveyed to and from London.

Rates of foreign Letters not delivered at London.

The Postmaster-General may keep Packet-Boats to go weekly from Donaghadee, or some other convenient Place in Ireland to Port-Patrick in Scotland, paying over and above the Ireland Rates of the Place, where such Letters are delivered to be sent by such Packet-Boats, for every single Letter 2 *d.* double Letter 4 *d.* treble Letter 6 *d.* and Ounce 8 *d.*

A Packet between Ireland and Scotland.

The Postmaster may erect Cross-Stages, and he or his Deputy may demand and receive the same Rates in any such Cross-Stages, in Proportion to the Distances of the Places, as Letters to and from London are rated.

Rates in Cross-Stages.

He may appoint one to measure the Roads by the Wheel, except such Roads where the Stages are already settled,

One appointed to measure the Roads.

tled ; and the Person so appointed, shall make fair Surveys of each of the Kingdoms, and shall leave one with the Postmaster-General in London, and another at the chief Office at Edinburgh ; which Surveys shall be signed by the Person who made them, and by the Postmaster-General and his Deputies in each Kingdom, and by the Comptrollers and Surveyors at the General-Post-Offices in London, Edinburgh, and Dublin, which Surveys shall determine the Distances on all the said Roads.

Upon Oath. Provided that he who makes the Survey, shall take Oath before some Justice of the Peace in the said Kingdom respectively, to perform the same according to the best of his Skill, and the Justices shall make a Certificate thereof in Writing, to be entred in the three General-Post-Offices without Fee.

Merchants Accompts not exceeding a Sheet, to pay nothing, nor Bills of Exchange, &c. Provided, That Merchants Accompts not exceeding one Sheet, and all Bills of Exchange and Invoices and Bills of

Lading, shall be allowed to pass without Rate in the Price of Letters, and likewise the Covers of Letters not exceeding one fourth Part of a Sheet, sent by the

Way of Vienna, Marseilles, Venice, Leghorn, to be sent to or from Turkey.

The Postmaster shall receive for every Post-Horse, he shall furnish a Gentleman with riding Post 3 d. per Mile, and 4 d. for the Guide, and he shall not charge any Thing for carrying a Bundle so as it doth not exceed eight Pounds.

Rates to be paid for riding Post.

All Letters and Packets brought by any Master of a Ship, or any of his Company, or any Passengers, shall be delivered into the Post-Office forthwith, in Pain of forfeiting 1. except such as may be sent by a common Carrier or Friend.

Letters brought by Shipping, to be put into the Post-Office.

The Master or other Person bringing such Letters to the Post-Office, shall receive of the Deputy-Postmaster a Penny for every Letter, he signing the Certificate of Number of Letters delivered, and by what Vessel they came, and when they were delivered; which Certificate shall be sent by the next Post to the Postmaster-General, together with the Letters so delivered, and he shall have Credit for so much Money upon his Account.

The Bearer to receive a Penny a Letter from the Office.

Penalty of other Persons carrying Letters or finding Post-Horses.

No Person other than the Postmaster-General or his Deputies shall receive, take or carry Letters either by Land or Sea, or provide Horses for riding Post, or collect any Letters, or set up any Foot-Post, Horse-Post, or Packet-Boat, under the Penalty of 5 *l.* for every Offence, and also 100 *l.* for every Week that any Offender shall collect, receive, take, carry or convey any Letters or Packets, either by Water or Land, or shall set up, continue, or employ any Foot-Post, &c. or other Conveyance for the carrying or delivering Letters.

Penalty of Deputy-Postmasters concealing By-Letters.

Any Person employed as a Deputy-Postmaster or otherwise, and who shall not duly accom-

for all By-Letters, and who doth not put in his Post-Bills, all the By-Letters he shall receive, distinguishing the same whether single or double, &c. or that shall destroy any such By-Letter, shall forfeit for every Offence the same as Persons prohibited setting up a Post-House. The Penalties to be recovered by Action of Debt, Bill, Plaint, or Information, one Moiety to the Crown, the other to the Prosecutor together with full Costs.

The Postmaster not furnishing Horses within half an Hour after Demand, the Person is at Liberty to provide himself as well as he can to the next Stage, and he who furnishes the Horses shall incur no Penalty.

When other Persons may furnish Post-Horses.

Provided, That if through the Default or Neglect of the Postmaster, any Person riding Post shall fail of being provided sufficient Horses after Demand, the Party offending shall forfeit 5 l. the one Moiety to the Crown, the other to the Prosecutor, to be recovered in any Court of Record.

Postmaster neglecting to furnish Horses, forfeits 5 l.

Provided, That this Act shall not prohibit the carrying of Letters to and from any Place, to and from the next respective Post-Road, or Stage appointed for that Purpose, being above six Miles from the said three General-Post-Offices.

Lawful to carry Letters to and from the Post-Towns.

Provided also, That no Person shall collect Letters in London or the Suburbs, without Licence of the Postmaster-General, under Pain of forfeiting as Per-

None to collect Letters in London, without Licence from the Office.

sons collecting, carrying, and delivering Letters contrary to this Act.

*Mails must be carried
in English Shipping.*

Provided, That if a Mail be carried out of England, in a Vessel which is not a free Ship, and navigated by Seamen, as by Law is required; That then the Postmaster-General shall forfeit 100 l. one Moiety to the Crown, the other to the Prosecutor.

*Officers of the Post-
Office to take the
Oaths and Test.*

Provided, That the Postmaster-General, and all his Officers and Deputies acting under him, who shall receive the Sacrament according to the Church of England, subscribe the Test, and take the Oaths of Allegiance, Supremacy, and Abjuration, in the Times and Places appointed by Law, shall be sufficiently qualified to execute their respective Employments throughout her Majesty's Dominions: And all Deputies and Agents acting under the Postmaster-General in Scotland, and who shall take the Oaths of Allegiance and Abjuration, and subscribe the same, with the Assurance appointed to be taken in Scotland, shall be qualified to exercise their Offices there.

*Packet-Posts in the
West and North.*

Provided, That a Packet-Post shall come twice every Week, by
True

Truro and Penryn to Penzance in Cornwall, and once a Week by Lancaster to Kendal, and by New-Castle and Carlisle to Penrith in Cumberland, and to the City of Lincoln and Borough of Grimsby in the County of Lincoln.

The Postmaster-General shall observe such Orders and Rules for Settlement of Posts and Stages on the Roads, and providing Horses, as the Crown shall make and ordain.

Post to be under the Direction of the Crown.

Provided, That no Horse shall be seized for the Post-Service without Consent of the Owner.

No Horse to be taken without Consent.

The Post shall pay nothing for passing Ferries in *North-America*, but the Ferrymen shall within half an Hour after Demand, convey the Post over the Ferry under Pain of 5 *l.* one Moiety to the Crown, the other to the Postmaster, to be recovered in the Courts there.

Post to pay nothing at Ferries in America.

All Money due for Letters not exceeding 5 *l.* shall be recovered before the Justices of Peace as small Tithes, and shall be paid before any Debt due to a private Person.

Money for Letters to be recovered before Justices of the Peace.

In-land Letters to be paid for by the Party who receives them.

All In-land Letters are to be paid for at the Stages where they are last delivered, unless directed Aboard or to any Person in the Army, or sent by the Penny-Post, or such as are sent out of England, which must be paid for when they are put in.

Privilege of the Universities saved.

Provided the two Universities enjoy their Privileges as heretofore, and that all Letters and other Things may be sent to, and from thence as formerly.

By-Bags to be continued.

Provided, That the Postmaster-General and his Deputies, may continue By-Bags for collecting and delivering By-Letters, the said Deputies paying the Duty to the Receiver-General.

This Act in Force till 1743.

After 1 June 1743. the old Rates shall be taken for Letters again.

Penalty of opening Letters.

No Person shall open, detain, or delay any Letter, after the same is delivered in the General Post-Office, except by a Warrant in Writing, under the Hand of a Secretary of State, or unless the Party to whom it is directed refuses

fuses to pay the Postage, or where the Letter shall be returned for want of true Directions: The Person offending in these Particulars, or imbezilling a Letter, forfeits 20 l. and full Costs, to him that will sue for the same, and is incapable of any Employment in the Post-Office.

The Postmaster and all his under Officers to take the following Oath before a Justice of the Peace of the County where resident.

I A. P. do swear, That
 I will not witting-
 ly, willingly, or know-
 ingly open, detain or delay, or cause,
 procure, permit or suffer to be open-
 ed, detained or delayed, any Letter or
 Letters, Packet or Packets which shall
 come into my Hands, Power, or Cu-
 stody, by Reason of my Employment
 in, or relating to the Post Office, except
 by the Consent of the Person or Per-
 sons to whom the same is or shall be
 directed, or by an express Warrant in
 Writing, under the Hand of one of the
 Principal Secretaries of State for that
 Purpose, or except in such Cases where
 the Party or Parties to whom such Let-
 ter or Letters, Packet or Packets shall
 be directed, or who is or are here-
 by chargeable with the Payment of the

*Postmaster and his
 Deputies Oath.*

' Port or Ports thereof, shall refuse or
 ' neglect to pay the same; and except
 ' such Letters or Packets as shall be re-
 ' turned for want of due Direction, or
 ' when the Party or Parties to whom
 ' the same is or shall be directed, cannot
 ' be found; and that I will not any way
 ' imbezil any such Letter or Letters,
 ' Packet or Packets as aforesaid.

*Officers concern'd in
 the Post-Office, not to
 meddle in Elections.*

No Person employed
 in the Post-Office shall
 perswade any Elector
 either by Word, Writ-
 ing or Message, to give a Vote to
 choose any Member of Parliament on
 Pain of 100 l. one Moiety to the In-
 former, the other to the Poor of the Pa-
 rish where the Offence is committed,
 and the Offender shall be incapable of
 any Office or Place of Trust.

C H A P. VI.

Of being Guest in an Inn, and of the Entertainment and Security the Traveller is entitled to there.

IN ancient Times there were no Inns but what were allowed in Eyre, but at this Day, if a Man puts a Sign at his Door and harbours Guests, that shall be deemed a common Inn, and he shall be chargeable for the Goods of those he entertains, if they happen to be lost. *Whoever harbours Travellers and sells them Provision shall be deemed an Innkeeper.* Trin. 21 Jac. 1. 2 Roll. Rep. 345. per Ley Ch. Justice, Chamberlain and Dodderidge; but if he takes down his Sign again, he discharges himself: By the same Judges. *ibid.*

And yet if after the taking down of his Sign he uses to harbour Travellers, it shall be deemed a common Inn, as well as if he had a Sign. 2 Rol. Rep. 346.

The Form of the Writ against an Inn-keeper upon the Custom.

Form of a Writ against an Inn-keeper upon the Custom.

Cum secundum legem & consuetudinem Regni nostri Angliæ Hospitatores qui Hospitia communia tenent ad Hospitan' homines, &c. transeuntes & in eisdem Hospitantes eorum bona, &c. absque subtractione seu Amissione custodire tenentur, quidam Malefactores quendam Equum ipsius A. &c. infra Hospitium ejusdem invenerunt pro defectu ipsius B. (the Inn-keeper) ceperunt, &c. 8 Co. 32: b.

The Writ need not mention that the Defendant keeps *commune Hospitium*, for it must be so intended; for the Recital of the Writ is, *Hospitatores qui communia Hospitia tenent*: But the Plaintiff ought to count that he kept *commune Hospitium*. *Pasch. 26 Eliz. 8 Co. 32: a. b. Caly's Case*. In the Writ the Inn-keeper may be named Yeoman, but in the Declaration it must be shewn that he is a common Hostler. *Br. General Brief, 16. Br. Action sur le Case, 58.*

If in such Action brought by the Master for Goods stolen from his Servant, the Plaintiff lays the Custom, That Inn-keepers ought to be careful

safely to keep the Goods of their Guests, and all other Goods brought into their Inns; the Custom is sufficiently alledged to maintain the Action. *Trin. 7 fac. between Beedle and Morris. Cro. fac. 224.* Adjudged after a Verdict for the Plaintiff, notwithstanding it was objected, there was no such Custom to keep the Goods of others safely. *Qu.* If in Judgment of Law the Master is not deemed the Guest in this Case, and so well enough to lay the general Custom only? *Yelv. 162.*

If in his Declaration the Plaintiff lays the Custom for common Inns, and then lays that he was *Hospitatus in Hospitio*, this is well enough; for it must be intended, that it was *Commune*, else it is *Domus*, and not *Hospitium*. *16 fac. Mason and Grafton. Hob. 245.*

The Traveller's Horse in an Inn, or at a Smith's Shop, cannot be distrained, for Rent, &c. due from the Inn-keeper or Smith. *Co. Lit. 47.*

Horse in an Inn or a Smith's Shop cannot be distrained.

If one driving his Cattle to London to sell, put his Cattle into a Pasture for a Night, although he have the Lessor's Leave so to do, the Lessor is not concluded by this Licence; but he may notwithstanding

Beasts going to London distrained for Rent, though put into the Grounds with the Lessor's Leave.

withstanding distrain these Cattle for Rent due from his Tenant. *Trin. 1 W. & M. inter Fowkes & Joice, 2 Ventr. 50.* Adjudged upon a Demurrer: But it did not appear upon the Pleading, That the Ground belong'd to a common Inn, and it did not come in Question, Whether they might have been distrained in that Case?

Hostler compellable to lodge Travellers.

He may detain the Man or Horse for the Meat.

Inn-keepers are compellable by the Constables to lodge Strangers. They may detain the Person of the Guest who eats, or the Horse which eats, till Payment. The Statute against Tipling extends to Inn-keepers. *1 Bulst. 109.*

Host may be indicted for Extortion.

If they make unreasonable Bills, they are indictable for Extortion, which other Sellers are not. See *Caley's Case, 8 Reports.* Per *Holt*, He is bound to provide for Travellers, and to protect and secure their Goods; the Recompence he receives, is not only for the Value of the Provisions, but for his Care and Pains, his Protection and Security. No Inn-keeper can be a Bankrupt. *Show. 269.*

Mr. Ford of Grey's-Inn
with other Company,
was at a Publick-House,
and another Company
bringing with them

*Justifiable to defend
one's Possession of a
Room in an Inn or
Tavern.*

some lewd Women, would have that
Room where Mr. Ford and his Company
was, and turn him out: To which
Mr. Ford answered, if they had civilly de-
sired it, they might have had it, but he
would not be turned out by Force;
whereupon they drew their Swords, and
Mr. Ford drew his Sword, and killed one
of them; and it was adjudged justifiable,
being in Defence of the Room he had
taken up. *Kelynge* 51.

If an Inn-keeper or
Vintner sells bad Wine,
or other bad Provision,
knowing it to be so, an
Action of Disceit lies against him. 9 H. 6.
53. B. Cro. Jac. 470.

*Casa lies against an
Hostler for selling bad
Provision.*

So if the Servant of
the Inn-keeper sells me
bad Wine, or any Thing

*So if his Tapster sell
it.*

that is corrupt, an Action lies against the
Master, but not against the Servant.
9 H. 6. 53. b.

Where the Inn-keeper
is non sane, yet an A-
ction of the Case lies a-
gainst him, if the Goods

*Hostler non Compos
the Action lies against
him, but not if he is
an Infant.*

110 *Of being Guest in an Inn.*

of the Guest be stolen: But if an Innkeeper keeps an Inn, no Action lies against him. *Mich. 40 & 41 Eliz. B. R. Cross and Andrews's Case.*

Dead Goods left at an Inn, the Inn keeper not answerable for them.

One came to an Inn with a Hamper of Hats, and went away, leaving them there two Days, and in his Absence they were stolen. Adjudged that he should not have an Action against the Innkeeper, because at the Time of the stealing he was not his Guest, and he had no Benefit by keeping the Hamper; therefore he shall not be charged for the Loss of it in his Absence. *Mich. 5 Jac. B. R. Jolly and Clerk;* but it had been otherwise if the Guest had returned the same Night. *Moor. 877.* And if the Host had promised to keep them safely, he might have been answerable upon such special Promise.

If one leaves his Horse at the Inn, the Host is answerable.

And if one comes to an Inn with a Horse which he rides, and leaves him there, and goes away from the Inn for several Days, and his Horse is stolen in his Absence, the Innkeeper is chargeable, because he had a Benefit by the standing of the Horse: Agreed *per Cur'* in the Case of *Jolly and Clerk.*

If the Inn-keeper invites one to Supper, and it being late, afterwards asks him to stay all Night, and he is robbed, the Inn-keeper shall not be chargeable, because he was not there as a Guest. 25 *Eliz. Car's Case*, Co. 32. b.

One treated by the Inn-keeper not deemed a Guest.

If a Stranger rides my Horse to an Inn where he is stole, I cannot maintain an Action against the Inn-keeper, because I am not his Guest; but if the Person were my Servant, it is otherwise. *Trin. 15 Jac. B. R. Robinson and Waller.*

A Stranger rides my Horse to an Inn, and he is stolen thence; I can have no Action, because no Guest.

If an Attorney hire a Chamber in an Inn for the whole Term, he is as a Lessee, and the Inn-keeper is not answerable; so where a Man boards or sojourns in an Inn upon a special Agreement and is robbed, the Inn-keeper shall not be answerable for it. *Latch, 127.*

Where one is a Lodger or Boarder in an Inn on a special Agreement, the Inn-keeper is not chargeable for the Loss of any Thing.

Where an Inn-keeper refuses Guest upon Pretence his House is full, and it be false, an Action on the Case lies against him.

Action against the Hostler who refuses Guests.

112. *Of being Guest in an Inn.*

Ancient Law in Relation to Guests.

By the ancient Law, the first Day the Guest was called a Traveller, the second a Hogenhind, and the third a Menial Servant, for whom the Host was answerable as for his Menial Servants. *Latch, 88.*

Hostler not bound to receive the Horse without the Master.

The Inn-keeper is not bound to receive the Horse, unless the Master lodge there. *2 Brownl. 254. per Coke Ch. Justice* : Nor is he bound to furnish his Guests with Provision, unless paid before hand ; for

Need not Trust.

he need not trust. *Br. Action sur le Case, 76.*

9 Co. 876.

Hostler answerable, tho' the Goods in the Guest's Possession.

Although the Traveller does not leave his Goods in his Landlord's Hands, but carries them up with him to the Chamber assigned him ; if he be there robbed, he shall have his Action against the Inn-keeper. *42 Aff. 17.*

Where a Horse is put to Grass by Direction, not answerable.

Where the Traveller desires his Horse may be put to Grass and he is stolen, the Inn-keeper shall not be chargeable ; for by Law, the Host is not answerable for any Thing out of his Inn, but only for those Things

quæ sunt infra Hospitium. Co. 8. Caley's Case, 32. b. but where the Inn-keeper puts the Horse to Grass without acquainting the Owner, he shall be answerable for him. *ibid.*

So if by the Inn-keeper's voluntary Negligence, the Horse is lost or stolen, by his leaving open the Gates, there he shall be chargeable, tho' directed by the Owner to put him out. *Pasch. 40 Eliz. B. R. Mossey and Fosse.* But *Qu.* If it ought not to be a special Action of the Case, and not upon the Custom of the Realm, that extending only to Things *infra Hospitium*?

Unless it be by the Hostler's Negligence.

If the Guest be assaulted and beat within the Inn, he shall have no Action against his Host; for the Charge of the Host extends to the Moveables only, and not the Persons of his Guests as said in Caley's Case, 8 Co. 32. b.

The Guest is beat in the Inn, he shall have no Action against the Hostler.

Where the Inn-keeper refuses a Guest because his House is full, and he says, he will shift among the rest of the Guests; if he is robbed, the Inn-keeper shall not be chargeable. 4 & 5 Pl. & Ma. Dyer 158.

The Hostler is not chargeable for the Loss of Goods, if he refuses the Guest for want of Room.

Or if the Guest refuses to secure his Goods when required.

Where the Host requires his Guest to put his Goods in such a Chamber under Lock and Key, and that then he will warrant their Safety, otherwise not ; and notwithstanding the Guest suffers them to lie in an outer Court, where they are stolen, no Action lies against the Host, for they were not lost through his Neglect, but of the Guest. *Mich. 9 & 10 Elix. Dyer 266. b. Spencer's Case.*

Hostler liable though not apprized of the Value of the Goods.

Though the Guest leaves his Door open, yet the Host is liable.

to the Guest, and he leaves the Door open and the Goods are stolen, yet an Action lies against the Host ; for at his Peril he ought to keep safely the Goods of his Guests. *8 Co. 33. a. in Caley's Case*

If the Host demands what Charge of Money the Guest has, and he says none, and is afterwards robbed, Question If the Host is liable ?

tion, whether the Host be answerable

The Host is liable though the Guest does not acquaint him what Goods he has. *8 Co. 33. A*

If the Host delivers the Key of the Chamber where the Goods are

But when the Host demands what Money of Goods he has, and tells him none, or Truth, less than he has it has been made a Question

Of being Guest in an Inn. H 5

Hill. 26 Eliz. in the Case of Brand and
Glas, Moor. 158. pl. 297.

If one lodges in the
Chamber with me in an
Inn at my Request, and
not by the Direction of
the Inn-keeper and he
robs me, the Inn-keeper shall not be
chargeable, nor if the
servant I bring with.
he rob me in the Inn,
shall he be chargeable. Brook. Tit. Actions
per le Case, fol. 6. a.

*If I take one into my
Chamber, who robs
me the Inn-keeper is
not chargeable.*

*Or where my Servant
robs me.*

If an Inn-keeper or
victualler refuse to sell
me Provision for my
Money, an Action of
the Case lies against him, but he need
not trust. fol. 66.

*Inn-keeper need not
trust, but Case lies
against him if he re-
fuses one Provision.*

An Inn-keeper may
keep the Horse, if the
Master refuse to pay for
his Meat, &c. as a Taylor may a Garment
till he is paid for the Making. And
where one sells his Horse,
he need not deliver him
till he has his Money,
unless by Agreement he
is not to have his Money till after-
wards. Br. Tit. Detinue, fol. 227. b.

*Hostler may detain
my Horse for his Meat.*

*One sells a Horse, he
need not deliver him
till he has his Money.*

An.

Hostler is chargeable for Goods stolen when the Guest is gone out.

there ; or if he go out into the Town, and leave his Horse at the Inn and return at Night, if his Goods are stolen while he is abroad, the Inn-keeper is chargeable with them : But where the

Otherwise if he take his Horse away, and returns two or three Days after.

Guest takes his Horse away, and promises to return in two or three Days and leaves his Goods there, and they happen to be lost, the Inn-keeper will not be liable to make them good, without a special Promise. *Cro. Jac. 188.*

Parkhurst versus Foster, Trin. 11 W. 3. B.R.

One letting Lodgings, Stables, &c. not an Inn-keeper within the Statute of 4 & 5 W. & M. c. 13. so as to have Soldiers quartered upon him.

Trespass was brought against the Constable for Quartersing a Dragoon upon the Plaintiff, to find him Meat and Drink, and Hay and Straw for his Horse, &c.

Upon Not guilty a special Verdict was found, viz. That the Plaintiff kept a House at Epsom, & dimisit Conclavia, (*Anglice, Lodgings,*) talibus quales ibidem accedebant propter salubritatem aeris & potionem aquarum, &c. and that he dressed Meat for his Lodgers at 4 d. per Joine and

and sold them Small-beer at 2 d. a Mug, and also found them Stable-room, Hay, &c. for their Horses, at such and such Rates; and that the Defendant being a Constable, quartered a Dragoon upon the Plaintiff: But it was held, That this was neither an Inn or Victualling-house within 4 & 5 W. & M. c. 13. where Soldiers may be billeted; for to an Inn, &c. People come and are entertained on Access, and the Inn-keeper is indictable if he refuse them, but here People lodge on a private Contract: in the one Case the Person is a Lodger, and in the other a Guest: And the Court gave Judgment for the Plaintiff. *Salkeld's Reports*, 387.

Yorkshire versus Grindstone, Mich 3 A. B.R.

In Replevin for a Horse, the Defendant avowed the Taking and Detaining, for that he kept an Inn, and the Plaintiff

One leaving his Horse at an Inn is to be deemed a Guest, otherwise where he leaves dead Goods.

being a Traveller, came and left his Horse there where he had been kept so long, That the Keeping came to such a Sum, till Payment whereof he detained him: Upon Demurrer, the whole Court held, That Inn-keepers were bound to receive and entertain Guests, and therefore might detain the Goods of Guests till Payment: But the Chief Justice doubted, whether the Plaintiff was a Guest in
this

x18 *Of being Guest in an Inn.*

this Case, because he never went into the Inn himself, but only left his Horse there which the Inn-keeper was not obliged to receive, and without an Owner did not receive as an Inn-keeper. *Powel, Powys, and Gold contra*, That the Plaintiff is a Guest by leaving his Horse, as much as if he had staid himself, because the Horse must be fed, by which the Inn-keeper has Gain; otherwise if he had left a Trunk or a dead Thing. *Vide Cro. Fac. 188, 189. Noy 46. Latch 126. Salk. Rep. 388.*

Hostler indicted for selling Oats at an extravagant Price.

An Inn-keeper was indicted for selling Oats at 2 s. 8 d. per Bushel when they were not more than 1 s. 8 d. per Bushel in the Market, upon the Statute of 13 R. 2. and the 4 H. 4. and Judgment was given against the Defendant. *Cro. Fac. 609.*

Action against the Inn-keeper for suffering the Horse of his Guest to be rid out.

Error of a Judgment in the Palace-Court in an Action on the Case wherein the Plaintiff declared, That such a Defendant in such a Parish in the County of Middlesex, he delivered to the Defendant (being a common Inn-keeper) a Gelding, saying to keep in his Inn, and that he suffered him to be taken out of his Stable, and rid so immoderately, that the Gelding

was spoiled; It was assigned for Error, that the Riding did not appear to be within the Jurisdiction of the Marshal's-Court. But *per Cur.* The Neglect in keeping is the Gift of the Action, and the Riding is a subsequent Wrong and a Measure of the Damage; and the Judgment was affirmed. *Stanyan versus Davis, Salk. Rep. 406.*

CH A P. VII.

Of Water-Carriage, and the Laws relating to the Importation and Exportation of Merchandize.

BY 12 Car. 2. cap. 18.

No Goods shall be imported or exported, to or from any of the Territories belonging to this Crown in *Asia, Africa, or America*, but in such Vessels as belong to the People of *England, Ireland, Wales,* or the Town of *Berwick*, and whereof the Masters and three Fourths of the Mariners are *English*, on Pain of Forfeiture of such Goods and Vessel,

Nothing to be exported or imported to or from our Plantations or Factories, but in English Bottoms, navigated by three Fourths English.

On Pain of forfeiting the Vessel and Lading.

with

with all its Furniture, one Third whereof to the King, and another Third to the Governor of such Territory, where such Default shall be, if seized there; otherwise that Third also to the King, and the other Third to him that shall seize or sue for the same. Commanders of the King's Ships are impowered to bring in as Prize, Vessels offending contrary to this Act; and in Case of Condemnation one Moiety shall be to the Use of such Commanders and their Companies, to be divided according to the Rules of the Sea in Case of Prize, and the other Moiety to the King.

Merchandize being the Produce of Asia, Africa, or America, not to be imported but in Ships sonavigated, on Pain of forfeiting the Ship and Cargo.

No Goods of the Growth of *Asia, Africa or America*, shall be imported into *England, Ireland or Wales*, the *Isle of Guernsey, Jersey*, or the *Town of Berwick*

but in *English* Vessels, whereof the Master and three Fourths of the Mariners are *English*, in Pain of forfeiting all such Goods, together with the Vessel, or Moiety to the Crown, the other to him that shall seize or sue for the same.

Coasters, their Crews shall be three Fourths Natives, on Pain of the like Forfeiture.

No Person shall load in any Bottom where Strangers are Owners Part-Owners or Masters

whereof three Fourths of the Mariners at the least are not *English*, any Goods whatsoever to be transported from one Port or Creek of *England*, *Ireland*, *Wales*, *Guernsey* or *Jersey*, to another Port or Creek in any of the aforesaid Places, in Pain of forfeiting both Vessel and Lading, one Moiety to the King, and the other to him that shall seize or sue for the same.

Where any Abatement or Privilege is given in the Book of Rates, to Goods im-

Drawbacks to be allow'd on'y to Goods imported as aforesaid.

ported or exported in Shipping built in *England*, or the Territories thereto belonging; it is to be understood, that the Masters and three Fourths of the Mariners are *English*, and that they continue such during the whole Voyage, unless in Case of Sickness, Death, or being taken Prisoners, which must be prov'd by the Master's Oath.

No Goods of the Growth, or Manufacture of any Countries

belonging to the Duke of *Muscovy*, no Masts, Timber or Boards, no foreign Salt, Pitch,

Merchandize from Muscovy, and the East-Sea, not to be imported in Ships otherwise navigated.

tar, Rosin, Hemp, Flax, Raisins, Apples, Prunes, Olive-Oils; no Corn, Grain, Sugar, Potatoes, Wine, Vinegar,

G

Aqua-

Aqua-Vitæ, or Brandy-Wine, shall be imported into England, Ireland, Wales, or Town of Berwick, in any Vessel not belonging to a Subject of this Realm, and

No Goods from Turkey in Europe, unless in the Ships of the Country where they grew or are manufactured.

navigated as aforesaid: No Goods of the Growth of the Turkish Empire, shall be imported into any of the Dominions of this Crown, in any Vessel not of English Built, and navigated as aforesaid except Vessels of the Built of such Place of which the Goods are the proper Manufacture or Product, or of such Port where they can only be, or usually are shipped, and whereof the Master and three Fourths of the Mariners are of the said Country, on Pain of forfeiting the Ship and Goods to be disposed as aforesaid.

Wines from France, and Germany, imported in other manner.

Vessels than such as belong to England, Ireland, &c. and are navigated as aforesaid:

Masts, Timber, Wines, Fruits, &c. all Goods from Russia, Turkey, &c. in Ships otherwise navigated deemed Aliens Goods.

All Wines of the Growth of France & Germany, which shall be imported into these Dominions, in any other Vessels than such as belong to England, Ireland, &c. and are navigated as aforesaid: And all Masts, Timber or Boards, Foreign Salt, Pitch, Turpentine, Rosin, Hemp, Flax, Ropes, Lins, Figs, Prunes, Olives, &c.

Oils; all Sorts of Corn or Grain, Sugar, Pot-Ashes, Brandy, Wines or Aqua-Vitæ, Wines of the Growth of Spain, the Canaries, Portugal, Madera, or western Islands; and all Goods of the Growth or Manufacture of *Muscovy* or *Russia*, all Currants and *Turkish* Commodities imported into this Realm, &c. in other than such Shipping, and so navigated, shall be deemed Aliens Goods and pay accordingly.

The Commodities of the *Streights* may be imported from the usual Places of Lading them; and *East-India* commodi-

Goods from the Streights to be imported from the usual Places of Importation.

ties from the usual Places of Lading them from any Part to the *Southward* and *Eastward* of the *Cape of Good-Hope*, though they are not the very Places of their Growth.

For every Vessel which shall set out from *England*, *Ireland*, *Wales*, or the Town of *Berwick*, or any of the said Plantations, Bond shall be given with one Security

Ships bound to the Plantations to give Security, that if they take in their Lading there, they shall bring it directly to England or Ireland.

to the chief Officers of the Custom-house of the Place from whence it sails, of 1000 *l.* if the Ship be less than of the Burthen of 100 Tuns, and of 2000 *l.* if greater Burthen, That if the said Vessel load any of the said Commodities, at

Such Plantations, it shall bring them to some Port of England, Ireland, Wales, or the Town of Berwick: And for all other

And Ships coming thence, to give the like Security to the Governor there.

Ships coming from any other Port to those Plantations, the Governor before the Ship be permitted to load shall take

Bond as aforesaid, that it shall carry them to some other English Plantations, or to England, &c. And every Ship taking on Board any of the aforesaid Goods, before such Bond given or Certificate produced from some Custom-house in England, &c. of such Bonds there given, shall be forfeited, to be divided and recovered as aforesaid; and the said Governors shall twice in every Year, return true Copies of such Bonds to the chief Officers of the Customs in London.

The Word Ireland now left out of all such Bonds.

By 22 & 23 Car. 2. cap. 26. the Word Ireland shall be left out of all Bonds taken in Pur-

suance of 12 Car. 2. cap. 18.

How the Master of a Ship shall be punished for Cowardice.

By 22 & 23 Car. 2. c. 11. Where any Goods shall be laden on board an English Ship of the Bur-

then of 200 Tuns or upwards, and mounted with sixteen Guns or more; if the Master yields up such Goods to any

king

ish Vessels, or any Pirates without Fighting, he shall upon Proof thereof in the Admiralty, be incapable of taking Charge of any *English* Vessel as Commander; and if he take upon him such Charge, shall be imprisoned six Months by Warrant from the said Court.

No Master of an *English* Ship discovering any Ship to be a *Turkish* Ship or Pirate, shall depart out of his own Ship upon any Pretence whatsoever: And Masters of *English* Ships, though not of the Burthen aforesaid, nor mounted with Guns as aforesaid, who shall surrender to a *Turkish* Ship or Pirate (not having at least his double Number of Guns) without Fighting, shall be liable to all the Penalties in this Act.

Upon Process out of the Admiralty, Commanders of the King's Ships, or other *English* Ships, may seize such Ships or Masters, and bring them in Custody into any Port, to be proceeded against.

The inferiour Officers

or Mariners refusing to fight when commanded, or uttering Words to discourage others, shall

How Mariners refusing to fight or discouraging others, shall be punished.

lose all their Wages due, and such Goods as they have in the Ship, and be imprisoned not exceeding six Months; and

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during

during such Time to be kept to hard Labour for their Maintenance.

Masters of Ships that have been yielded contrary to their Will, by the Disobedience of the Mariners, shall not be incapacitated as aforesaid, nor be liable to any Action for the Merchants Losses unless they have received back from the Factors some Recompence.

Mariners laying violent Hands on the Master to avoid fighting, adjudged Felons.

Mariners laying violent Hands on their Commanders, to hinder them from fighting in Defence of their Ships, shall suffer Death as Felons.

When any *English* Ship shall have been defended by Fight, and brought to her Port, in which Fight any of her Men have been wounded; the Judge of the

Mariners rewarded who behave themselves well in an Engagement.

Admiralty or his Surrogate, or of the Vice-Admiralty where the Ship shall arrive, upon

the Petition of the Master and Seamen, may call so many as he shall be informed to be Adventurers or Owners; and by Advice with them, lay upon the respective Owners and Adventurers, such Sums as himself with the major Part of them then present shall judge reasonable, not exceeding 2 *l.* per Cent. of the Ship and Goods according

to the Invoice, or by Oath of the Owner, Factor, &c. which Money shall be paid to the Register of the said Court, who shall receive ; d. in the Pound for the same, to be distributed among the Captain, Masters, Officers and Seamen, or the Widows and Children of the slain, according to the Direction of the Judge, with the Approbation of three or more of the Owners or Adventurers.

If the Company of any English Merchant-Ship, take a Ship which shall first have assaulted them, the Officers and Mariners thereof, after Condemnation, shall receive such Shares as are distributed in private Men of War.

Captains, Masters, Mariners, &c. wilfully destroying the Ship to which they belong, or procuring the same to be done, shall suffer as Felons.

Master or Mariner wilfully destroying a Vessel, adjudged a Felon.

All Offences against this Act, are made triable in the King's Bench, or before Justices of Oyer and Terminer, by 5 & 6 W. & M. c. 25.

Where the Offence shall be tried.

There were several Proprietors of a Ship, which had usually transported Goods for Hire, and a Master was placed

Owners of the Ship as well as the Master, liable to an Action where Goods receive Damage by his Default.

therein by the Part-Owners, who was allowed 60 l. Wages for every Voyage from *London* to *Topsham*; and J. S. without making any Contract with the Part-Owners, and when none of them were present, delivered certain Goods Aboard to the Master, to be carried for Hire from *London* to *Topsham*, where the Ship safely arrived, but the Goods were spoiled through the Neglect of the Master. It was held in this

Action must be brought against all the Owners.

Cafe, That an Action lay against the Part-Owners; for although the Master is chargeable in respect of his Wages, the Proprietors are liable also in respect of the Freight, at the Election of the Plaintiff. *Trin. 1 W. & M. int. Boson and Sandford. 3 Lev. 258. 3 Mod. 322.* But the Action ought to be brought against all the Proprietors, it being upon a Promise created by Law: And *per Dolben*, If it be not, it might have been pleaded in Abatement. *3 Mod. 324.*

Merchant's Servant running Goods without his Master's Privy, answerable to the Merchant if they are seized.

Where a Merchant's Servant takes his Master's Goods, after they arrived at any Port in *England*, and lands them before the Custom is paid, whereby the Goods are forfeited and seized by the King's Officers, the Master

ster may have either an Action of Trespass, or an Action on the Case against such Servant, for the Damage he sustains. *Trin. 8 Jac. Scacc. Adjudg'd between Levinson and Kirk, Cro. Jac. 265.*

The major Part of the Owner's of a Vessel may against the Consent of the rest, but not without their Privity, freight out their Vessel to Sea. *Molloy, 219.*

Major Part of the Owners may freight out a Ship when the rest refuse.

Where one of the Owners is obstinate and will not consent to the Voyage, or sell his Part, the rest may rigg out the Ship at their own

And the others shall have no Share in the Profits; but if the Vessel miscarry, they are answerable for their Parts.

Costs; and whatever Freight she earns, he shall have no Benefit of it; but if the Vessel happen to miscarry, the rest are answerable to him for his Part. 221.

The Master of the Vessel is to be chosen by the Part-Owners in Proportion to the Value of their several Shares, and not the Majority of Voices; so that the Vote of one who hath a Third, is equivalent to two who have but Sixths. *ibid.*

So many Shares as an Owner has, so many Votes in the Choice of a Master, &c.

Master answerable to the Owners jointly and separately.

The Master upon any Default, is answerable to the Owners jointly and separately ; and

where a Ship has earned a Freight, and Part of the Owners have been paid their Proportions, the rest may bring Actions for their Shares without joining the others. *ibid.* Stanley versus Arles, 3 Keeble, 444.

When the Master pawns the Ship for Necessaries, where the Owners shall be bound by it, and where not.

Where the Master takes up Money to victual or mend his Ship, where he has no Occasion, his Owners shall

not be liable to repay it : But if the Ship really want Repairs or other Necessaries, the Owners will be liable, although the Master applies the Money to some other Use. *Bridgman's Case, Hob. 11, 12.*

But it is said, That if the Ship wants some slight Repairs, and a great Sum much more than is necessary shall be lent, the Owners are not liable to pay the whole.

Where the Merchants Goods are seized as forfeited, the Owners shall however be paid for the Freight.

If a Ship is freighted out and receives her Lading, pursuant to Agreement, and afterwards an Embargo happens, and the Lading is taken as forfeited, yet the Owner's shall receive their Freight notwithstanding.

withstanding, for there was no Fault in them but in the Merchant. *Molloy 225.*

On Importation of prohibited Goods, the Ship cannot be seized as a Forfeit, till a Condemnation in the Exchequer. *Horn versus Joye,*

Ship importing prohibited Goods, not to be seized till they are condemned.

2 Keeble, 604.

By 4 & 5 W. & M.

cap. 15. all Persons who by way of Insurance or otherwise, shall undertake to deliver any Goods imported from beyond-sea, without paying the Duties payable for the same, or shall import any prohibited Goods, shall forfeit for every Offence 500 l.

Importing prohibited Goods, 500 l. Forfeiture.

All Persons who shall agree to pay any Money for the insuring or conveying any Goods to be imported without

Persons insuring the Importation of prohibited Goods forfeit 500 l.

Payment of the Duties, or for the Importing any prohibited Goods, or who shall receive such prohibited Goods, or other Goods, before the Duties paid, knowing thereof, shall forfeit for every Offence, 500 l.

No Penalty to be recovered unless Prosecution shall be within twelve Months.

Prosecution in twelve Months.

Master answerable for all Damages sustained by the Default of himself or his Crew.

the Master is answerable for the Damage. *Molloy, 229.*

Chargeable so soon as the Goods are receiv'd into his Boat.

lost, he is chargeable both by the Marine and Common Law. *ibid.*

He ought to know his Passengers.

He ought to come into the great Ports, and not into private Creeks.

at his Return; nor ought he to ship any Merchandizes but at the publick Ports and Keys. 15 H. 6. cap. 8.

Must not use false Colours.

whereby his Ship or Lading may incur a Seizure.

Must take Care his Tackle and Rigging be good.

Where any Misfortune happens to a Vessel thro' the Negligence, Wilfulness, or Ignorance of the Master or his Crew,

If the Master receive Goods at the Key, or send his Boat for them, and they happen to be

The Master ought not to take into his Ship Persons unknown.

He ought to put into great Ports, and not come into private Creeks

He must not lade prohibited Goods, &c. nor shall use false Colours

He must not set sail with insufficient Rigging, Tackle, Cables, &c.

If Damage happens by Delivery of Goods into the Lighter, as by breaking of the Rope, &c.

If they break in the Delivery of the Goods, he is chargeable.

the Master is chargeable; but if a Lighter comes to the Key, and in taking up the Goods the Rope breaks, the Master is excused and the Wharfinger is liable.

Coke Tit. Entries, fol. 3.

If the Master deviates in his Course without just Cause, he is answerable for the Damage.

If he deviate in his Course, he is chargeable.

Where the Master of a Ship is an Infant, he is liable to be sued for Breach of Contract in the Court of Admiralty. 1 Roll. Abr. 530.

An Infant-Master chargeable.

The Master cannot sell the Vessel without an Authority from the Owners. 1 Sid. 453.

Master cannot sell the Vessel.

If the Vessel happens to be cast away, and the Mariners by their Pains and Care, save Part of

Wrecked Goods saved by the Mariners may be distributed among them.

the Wreck or Lading, the Master may pledge the same, and distribute the Produce among his Men in order to carry them Home. Where the Mariners do not contribute to the Salvage, they are intitled to nothing. Judgment.

Mariner saving no Goods, intitled to nothing.

Oleron, cap. 3.

All

*Owners must swear
the Ship is their own,
and does not belong to
Foreigners.*

All Owners must make Oath, That their Vessels are their own proper Ships or Vessels, and that no Foreigner hath any Share or Part in it, and that she was bought for a valuable Consideration, and duly enter the same. 12 Car. 2. 18.

*Ship shall be but three
Days coming up from
Gravesend.*

By 13 & 14 Car. 2. c. 11. no Vessel arriving from beyond-sea, shall be above three Days coming from Gravesend to the Place of her Discharge in the Thames, without touching at any Place between Gravesend and Chester-Key (except some just Impediment happen:) And then, or before, the Master and Purser shall make true Entry

*In which Time Entry
shall be made upon
Oath of her Cargo,
&c.*

upon Oath of the Lading, with the Marks, Qualities, &c. of every Parcel of Goods, and where she took in her Lading, of what Country Built, how manned, and who are the Master and Owners; and in the Outports, they shall come directly to the Place of Unlading, and make Entries, &c. under Penalty of 100 l.

*No Goods to be put
on Board till the Ship
is entred at the Cu-
stom-house.*

No Captain, Master, Purser, &c. shall take in any English Goods, till they have entred such Vessel

Vessel in the Book of the Commissioners, Customer, and Comptroller outwards of the Port, where, &c. the Name of the Captain or Master, the Burthen of the Vessel, Number of Guns and Ammunition, and to what Port she intends. And before he

depart, he shall bring to such Customer, &c. a Content in Writing under his Hand, of the Names of every Merchant and other Person

Before they sail, a Content under the Hand of every Master, &c. to be delivered in at the Custom-house, and Oath made there, &c. on Pain of 100 l.

that has put on Board any Goods, with the Marks and Number of the Goods; and shall in the open Custom-house, upon Oath to the best of his Knowledge, answer the Questions to be demanded by Persons appointed to manage the Customs, &c. concerning such Goods, on Pain to forfeit 100 l.

If any Goods for which Subsidy or Custom is payable, shall be secretly conveyed on Board, and escape Discovery by the Officers of the Customs,

Goods exported and the Duty not paid, the Merchant forfeits double the Value.

and be carried beyond-sea, the Owners of them, or any others that shipped them, shall forfeit double the Value.

Mer:

*Merchants to subscribe
a Bill of Entry, with
the Marks, &c.*

Merchants and others
passing Goods inwards
or outwards, shall by
themselves or their A-
gents subscribe one Bill of every Entry,
with the Mark, Number, and Contents
or Weight of the said Goods, without
which no Entry shall pass.

*Goods shipped or un-
laded at any other
Ports than those ap-
pointed, forfeited.*

No Goods shall be put
into any Vessel to be
exported, or set on
Shore to be imported,
but at such Ports and

Places as are appointed for shipping and
unlading of Goods, without Leave from
the Officers of the Customs, on Pain of
forfeiting all such Goods

*Fish, Coal, &c. ex-
cepted:*

(Fish taken by the King's
Subjects, Sea-Coal, Stone,
Salt, and Bestials only excepted.

*Packet-boat carrying
Goods, the Master for-
feits 100l. and loses
his Place.*

No Vessel employed
for the Carriage of Let-
ters and Packets, shall
export or import any
Goods on Pain of 100l.

to be paid by the Master, with the Loss
of his Place; and all

*And the Goods found
Aboard are forfeited*

Goods found Aboard
such Vessels shall be for-
feited, unless in Cases to be allowed by
the Officers of the Customs.

One Moiety of all the Forfeitures in this Act shall be to the King, the other to the Informer.

One Moiety to the King, the other to the Informer.

If any Person employed in the Customs, demand or take greater Sums than are due by Law, or put any Merchant by his Turn, &c. he shall be liable to double Costs and Damages. *Vide* the Act at large, of great Use to Merchants, &c.

Officers of the Customs demanding more than is due, &c. if sued to pay double Costs.

If a Mariner is bruised or hurt in doing his Duty, the Master is to take Care of his Recovery. *Molloy, 242.*

Mariner hurt in his Business, to be taken Care of by the Master.

If the Master commands his Boat to be manned out, and it be out of Order and unfit for the Sea, whereby the Mariners are drowned, the Master is obliged to pay one Year's Wages to the Heirs of the Deceased. *ibid.*

Boat leaks whereby a Mariner is drowned, the Master to pay a Year's Wages to his Heir.

Where a Mariner commits a Fault, and refuses to submit himself, the Master may set him on Shore, and he shall lose half his Wages; but if the Mariner submit himself, and the Master will not receive him, he shall have his whole

Where the Master may set a Mariner on Shore.

whole Wages ; and if any Damage happen to the Ship or Goods for want of Hands, the Master will be answerable for it. *Molloy, 242.*

Sailer not to go ashore without Leave of the Master.

A Sailor may not go from on Board after he is admitted into whole Pay, which is always when they break Ground, without Leave of the Master ; and if they do before, they must leave a sufficient Number of Hands on Board. *Molloy, 243.*

Sailor left sick on Shore, shall have his full Wages.

Where a Ship leaves a Sailor sick on Shore, he shall have his full Wages. *ibid.*

Master not chargeable for Goods thrown over-board in a Storm.

Where Goods are cast over-board in a Storm, upon the Mariners making Oath, That it was done for the Preservation of the Ship and the rest of the Lading, the Master shall be discharged ; so in like Manner where Goods are damnified without his Default. *Molloy 444.*

Where the Mariners are intitled to Wages, and where not : Where Owners lose their Freight.

If a Ship happens to be seized for Debt, or becomes forfeited by lading prohibited Goods, the Mariners shall have their Wages notwithstanding ; but if the Ship perishes at Sea, they lose the Wages.

Wages, and the Owners their Freight, as well by the Common as Civil Law. *ibid.*

Where Goods are damaged or imbezilled by Default of the Ship's Crew, the Owners shall have Damage deducted out of their Freight, and they shall deduct it out of the Wages of the Mariners. *Molloy, 245.*

Owners may deduct their Damage out of the Freight; and the Wages of a Sailor may be stopped for imbezilling Goods.

If a Sailor deserts the Service before the End of the Voyage, he loses his Wages. *ibid.*

Where any Damage happens to the Master or Owners through the Sailor's Default, an Action lies against him. *ibid.*

Action lies against a Sailor for Damages sustained by his Fault.

Where a Ship is lost by Tempest, Enemies, Fire, &c. the Crew lose their Wages. *Sid. 179.*

Wages, where lost.

If a Mariner takes up Money or Cloths, and the same is entred in the Purser's Book, by the

Goods taken up of the Purser, to be deducted out of his Wages.

Custom-Marine, it is a Discompt or a Receipt for so much of their Wages as the same amounts to; and in an Action brought for their Wages, the same shall be allowed and is not accounted mutual, the

the one to bring his Action for the Cloths, and the other for his Wages. *Molloy*, 246.

*Master may justify
correcting a Sailor.*

they bring an Action against him, he may justify the same at Common Law. *ibid.*

*Goods taken into the
Masters Boat and lost,
he is chargeable for
them.*

Where the Mariners go with the Ship's Boat to fetch Goods on Board, and they have once taken Charge of them, the Master becomes responsible, if they are lost or imbezilled. *Molloy*, 247.

*What Goods the Ma-
ster of a Vessel is an-
swerable for.*

The Master is answerable for no other Goods, but what are brought on Board by his Consent or his Purser's.

If the Master tells a Passenger, he will not take charge of his Goods, but he must look after them himself, the Master is said not to be responsible, but without such Declaration he shall.

*Where a Passenger
dies Aboard, how his
Effects shall be dispo-
sed of.*

If Passengers having Goods, happen to die on Shipboard, the Master shall make an Inventory of their Effects and keep them safely for one Year; and if none claim them in that Time, he be-
come

comes *Proprietor defeasible*: But the Bedding and Furniture belong immediately to the Master and his Mates; and the wearing Cloths shall be brought to the *Mast*; and there appraised and distributed amongst the Crew, as a Reward for their Care in seeing the Body buried in the Sea. *Molloy*, 258.

The Master is not bound to answer Freight to the Owners for Passengers, if they are found to be unable to pay. *Molloy*, 260.

Master not to answer Freight to the Owners, if the Passenger is not able.

In an Action on the Case the Plaintiff declared, That the 20 Jan. 9 Jac. he delivered to the Defendant, who was a common Hoyman, a

Hoyman chargeable for Goods he had agreed to carry, though delivered to another to carry by the Plaintiff's Consent.

Portmanteau with 50 l. to be carried from London to Milton in Kent, for which the same Day he gave him 2 d. and that the Defendant suffered the same to be lost. The Defendant pleaded, That the 21st of the same Month the Plaintiff discharged him of keeping it, which the Plaintiff traversed, and the Defendant demurred. And it was adjudged for the Plaintiff, for that by the Demurrer, the Defendant had confessed there was no Discharge of the Carrying, and then by the Common Law the Action lies: And

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the Judgment was affirmed in the Exchequer-Chamber on a Writ of Error. *Trin. 12 Jac. B. R. Ro. 1543. Rich and Kneeland's Case, Hob. 17. 2 Cro. 330.* In this Case it appeared, that the Hoyman gave the Portmanteau to another to carry, (by the Plaintiff's Consent) who lost it, and yet the first Hoyman was held chargeable.

The Master and Owners both liable to an Action.

Where there are several Proprietors of a Vessel, and the Goods are damaged, an Action lies either against the Master or the Owners; but if it be brought against the Owners, they must be all made Parties to the Action. *3 Mod. 321.*

If a Ship be robbed in the River, the Master is answerable for the Goods.

Where a Merchant lades Goods on Board a Vessel, to be transported at a reasonable Freight to be paid the Owners; and in the Night-time, while the Ship rides in the River *Thames*, some Persons under Pretence of pressing the Seamen, seize on them and take away the Goods, an Action will lie against the Master for the Damage. *Hill. 23 & 24 Car. 2. Mors and Slaine, 1 Ventr. 190, 233.* But by the Admiral-Law, the Master is not chargeable *pro damno fatali*, as in the

Not so if the Ship were at Sea.

the Case of Pirates, Storms, &c. where there is no Neglect in him ; yet because this Ship was *infra Corpus Comitatus*. that Law does not prevail, and the Master would have been answerable, if the Goods had been burnt. 3 *Lew.* 259.

He is liable if the Goods are burnt in the River.

The Master is chargeable in respect of his Wages, the Owners in regard of the Freight ; but where several take their Passage in a Vessel, and a Tempest happens, and Goods are thrown over-board to save the Ship, whether by a Passenger or by the Crew, no Action lies for them. *Mich.* 12 *Jac.* 2 *Bulst.* 280.

Master and Owners both chargeable, but not where Goods are thrown over-board in a Storm.

Where one undertakes to carry my Goods by Water, and overloads the Vessel with other Goods, which occasions the Loss of mine, I may have an Action on the Case against him. 22 *Aff.* 41.

Vessel overloaded and lost, the Master answerable for the Goods.

Sands brought his Action on the Case against *Josiah Child*, for that the said *Sands* being owner of a Ship that lay in the River ready

The King may lay Imbargoes for the public Good, but not for the private Advantage of a particular Company.

to sail, the Defendant hindered his voyage by procuring an Order of Council

cil

cil for arresting her by Admiralty-Process, *per quod* the Voyage was lost. It was resolved in this Case, That the King might lay Imbargoes *pro bono publico*, but not for the private Advantage of a particular Trader or Company; and Judgment was given for the Plaintiff in C. B. and affirmed upon a Writ of Error in B. R. *Salk. Rep. 31.*

Master may hypothecate the Ship and Cargo.

The Master of a Vessel may hypothecate the Goods as well as the Ship for Necessaries and the Ship and Cargo shall be liable but the Owners are not liable personally *Salk. 35.*

Where a Mariner shall sue for his Wages.

The Master of a Vessel shall sue for his Wages at Common Law but a Mate or other Mariner shall sue in the Admiralty. *Salk. 33.*

At what Time a Premium shall be allowed for transporting Grain.

By 1 W. & M. Sess. cap. 12. When Malt or Barley, Winchester Measure, shall be at 24 s. per Quarter or under, Wheat at 48 s. per Quarter or under, in any Port of England or Wales, Merchants and others, who shall put on Shipboard in English Shipping, (the Master and two Thirds of the Mariners being his Majesty's Subjects) any of the Corn or Grain aforesaid

said, to export the same beyond sea, shall bring Certificates under their Hands, containing the Quantity and Quality of the Corn shipped, to the Persons appointed to collect the Customs in any such Port; and upon Proof made of such Certificate, by one or more credible Persons, upon Oath, and upon Bond given by such Merchant or other Person, in 200 *l.* for every 100 Tun of Corn so shipped, and so proportionably; That the said Corn (Dangers of the Sea excepted) shall be exported into Parts beyond the Sea, and not be landed in *England, Wales, Guernsey, Jersey or Berwick*, shall receive from the Person appointed to collect the Customs as aforesaid; for every Quarter of

| | |
|------------------------------|--------------|
| Barley or Malt ground or un- | s. d. |
| ground, 2 s. 6 d. for every | Barley 2 6 |
| Quarter of Rye, 3 s. 6. for | Rye 3 6 |
| every Quarter of Wheat, 5 s. | Wheat 5 0 |
| | per Quarter. |

and shall pay no Custom, or any Fee or Reward for Corn so laden to be exported; and upon Certificate under the common Seal of the Chief Magistrate in any Place beyond the Sea, or under the Hands and Seals of two known *English* Merchants upon the Place, that such Corn was there landed; or upon Proof by credible Persons, that such Corn was taken by Enemies, or perished at Sea,

H

the

the Examination and Proof thereof being left to the Receivers of the Customs, the Bond shall be delivered up to be cancelled, and the Moneys so paid shall be allowed as paid to their Majesties.

By 5 Ann. c. 29. The
Malt made of Wheat, Exporter shall have 5 s.
 5 s. per Quarter for exporting
 Malt made of Wheat, &c.

Before I leave this Head of Water-Carriage, I shall take a View of the Laws concerning Wrecks.

By *Westm. 1. c. 4.* it is declared, That where a Man, a Dog, or a Cat escapes alive out of a Ship or Vessel, neither the Vessel nor any Thing therein shall be adjudged a Wreck.

And although this Statute mention only a Wreck, yet it extends to *Flotsam*, *Jetsam* and *Lagan*. 2 *Inst.* 167.

The Statute instances in a Man, Cat, or a Dog; but if any other living Creature escape, whereby the Property of the Goods may be known, the Vessel shall not be adjudged a Wreck. *ibid.*

Molloy gives the following Interpretation of *Wreccum*, *Flotsam*, *Jetsam* and *Lagan*.

Wreccum Maris, says
Wreccum, *Flotsam*, he, are such Goods as
Jetsam, and *Lagan*. are cast and left upon
 the Land by the Sea.

Flotsam

Flotsam, is when a Ship is sunk or otherwise perished, and the Goods float upon the Sea.

Fetsam, is when the Ship is in Danger of being sunk, and for lightening the Ship, the Goods are cast into the Sea, notwithstanding which the Ship perisheth.

Lagan vel Ligan, is when the Goods are cast over-board, and a Buoy is fixed to them to describe where they are.

The King shall have *Flotsam, Fetsam, and Lagan* when the Ship perisheth, or when the Owners of the Goods are not known; but when the Ship is not lost he shall not. *Molloy, 268.*

Where a Ship is ready to perish, and all the Men leave it to save their Lives, and the Ship is lost; if the Goods are cast on Shore, they shall not be deemed a Wreck where any of the Men escape. *2 Inst. 167.*

Where any one escapes 'tis no Wreck.

A Ship being pursued by the Enemy, all the Men left her; the Enemy plundered her and turned her a-drift, and she was cast ashore, this was held by all the Judges to be no Wreck. *ibid.*

Although the Men leave her, and she be cast ashore.

Averidge defined.

Averidge, is a Term used by Merchants to signify that Contribution, they are obliged to make to those who have had their Goods cast into the Sea for the Safety of the rest; and this is proportioned according to that Share of Goods that every Merchant has on Board. *Molloy, 275.*

Averidge or Contribution where Goods belonging to a Ship are lost, who are intitled to it.

If a Lighter or the Ship's Boat into which Part of the Cargo is unladen for lightening the Ship, happen to perish, and the Ship is preserved, Contribution shall be made. But if the Ship be cast away, and the Lighter or Boat be preserved, there no Contribution or *Averidge* is to be had; it being a Rule, *No Contribution but where the Ship arrives in Safety. Molloy, 277.*

The Master, Purser and Passengers shall contribute.

The Master and Purser of the Ship shall be brought into a Contribution for the Safety of the Ship, and so shall the Passengers for what Effects they have Aboard, whether Jewels or other Things; and such Passengers as have no Wares or Goods in the Ship, are to be rated for their Apparel, Rings, &c. towards the Contribution.

tion, and nothing is excepted but the Ship's Provisions. *Molloy*, 278.

By the Laws of Oleron, if a Ship was in Danger of being lost, by the Unskilfulness or other notorious Default of the Pilot; the Ship's Crew might lead him to the Hatches, and strike off his Head, but the Laws of England will not admit of such hasty Executions. *Molloy*, 285.

Unskilful Pilot, bound punishable.

And by the Laws of Denmark, an ignorant Pilot is to be drawn three Times under the Keel of the Ship. *ibid.* And by our Laws an Action lies against him for the Damage sustained.

The several Ports that are assigned for the importing and exporting of Merchandize, *Vide Molloy*, 354.

Ports assigned for landing the Merchandize.

Note, All the Ports and Havens in England, are *infra Corpus Comit.*

Admiral has no Jurisdiction in the Ports.

and the Court of Admiralty cannot hold Jurisdiction of any Thing done in them. *ibid.* 360.

The Port of London being the most considerable, and several Frauds having been committed in clandestine shipping and landing of Goods at several blind Wharfs

Places appointed for shipping and unlading Goods in the River Thames.

and Stairs, the following Places have been assigned for the shipping and landing of Goods, by Vertue of a Commission out of the Exchequer.

*Brewer's-Key,
Chester's-Key,
Wooll-Dock,
Custom-house-Key,
Smart's-Key,
Fresh-Wharf,
Porters-Key,
Bear-Key,
Sabb's-Dock,
Lyon-Key,
Buttolph-Wharf,*

*Hamon's-Key,
Gaunt's-Key,
Billingsgate,
Wiggon's-Key,
Young's-Key,
Ralph's-Key,
Dice-Key,
Cock's-Key,
Bridgehouse in South-
wark.*

Wreck.

By a Statute of the 12th of Queen Anne, *Seff. 2. c. 18.* it was enacted, That the Sheriffs and Justices of the Peace of every County, or County of a City or Town, and all Mayors, Bailiffs, and other Head Officers of Corporations and Port-Towns near adjoining to the Sea; and all Constables, Headboroughs, Tithingmen, and Officers of the Customs in all such Places, upon Application to them, made on Behalf of any Com-

Justices of Peace near the Coast, impowered to command the Constables, &c. to assist Vessels in Distress.

Commander of a Ship in Danger of being stranded or run a-shore, shall command the Constables nearest the Sea-Coasts where such Ship shall be in Danger, to call together as many Men as shall be necessary to the Assistance, and for the Preservation of such Ship. And if there shall be any Ships of War, or other Ships, lying at Anchor near the Place, then the Officers of the Customs and Constables, &c. are to require the Assistance of the superior Officers by their Boats, and as many Hands as they can spare. And such Officers on Refusal or Neglect to assist, shall forfeit 100 l. to be recovered by the superior Officer of the Ship in Distress, with Costs of Suit.

Ships of War and other Ships commanded to assist them on Pain of 100 l.

The Collectors of the Customs, and Officers of any Ships, and all others who shall act in the preserving any Ship in Distress, or the Cargoes thereof, shall within thirty Days after, be paid a reasonable Reward for the same by the Officer or Merchant. And in Default thereof, the Ship or Goods so saved shall remain in the Custody of the Officers of the Customs until paid. And if any Difference arise about the Salvage, three Ju-

Reward to those who assist.

To be allotted by three Justices.

Justices of Peace shall adjust the *Quantum*, to be paid to the Persons acting therein, which shall be binding to all Parties, and recoverable in an Action at Law.

Goods to be sold after a Year, and the Produce to be returned into the Exchequer.

And all Goods not claimed in 12 Months shall be sold, the Justices taking an Account thereof in Writing, signed by the Officer of the Customs, and put into his or some other safe Hand; and if perishable Goods, forthwith to be sold; and after Charges deducted, the Moneys arising by such Sale, shall be transmitted into the Exchequer, with a fair Account of the whole for the Benefit of the Owner, who on Proof of his Property before one of the Barons of the Exchequer, shall upon his Order receive the same.

To be paid to the Owner on proving his Property.

Persons hindering the saving of the Ship or Goods to make double Satisfaction.

All Persons entering such Ships in Distress without Leave from the Commander, Constable, &c. or molesting any one in the saving the Ship or Goods; or when saved, shall deface the Marks of the Goods, before the same shall be taken down in a Book for that Purpose by the Commander or ruling Officer, and the first Officer of the Customs; such Person

Person shall within twenty Days, make double Satisfaction to the Party grieved, at the Discretion of the two next Justices of Peace ; or in Default thereof, shall by such Justices be sent to the House of Correction, and there kept to hard Labour for twelve Months ; and the Master, Constables, &c. may by Force repel such Persons, who shall press on Board the said Ship in Distress without Leave.

Any Goods carried off from such Ship, and found on any Person, shall on Demand be delivered to the Owner, or the Person shall be liable to pay treble the Value of such Goods, to be recovered by the Owner in an Action at Law.

Goods found in any Person's Hands to be delivered to the Owner.

Any Person making Holes in the bottom, Side, or in any Part of the Ship, or stealing any Pump, or doing any Thing tending to the Loss of the Ship, shall be adjudged guilty of Felony without Benefit of Clergy. Persons sued for any Thing done by them in Pursuance of this Act, may plead the General Issue, and give this Act in Evidence ; and if the Defendant recover, he shall have full Costs.

Felony to sink or destroy a Ship.

Officers of the Customs abusing their Trust, to be punished.

If any Officer of the Customs, or his Deputy, abuse the Trust hereby reposed in him, and be convicted thereof, he shall forfeit treble Damages to the Party grieved, to be recovered by Action of Debt in any Court of Record, and be incapable of any Imployment in the Customs. This Act to commence from the first of August, 1714, and continue in Force for three Years, and from thence to the End of the next Sessions of Parliament. It shall be read four Times in the Year, in all Parish Churches and Chapels in Sea-Port-Towns, viz. on the respective Sundays before Quarter-day.

Right to Flotsam, Jetsam and Lagan, excepted.

Provided, This Act shall not extend to deprive the Crown, or any Grantee, of any Right or Claim to any Wreck, or Goods that shall be Jetsam, Flotsam, or Lagan.

C H A P. VIII.

Of the Laws concerning Bills of Exchange, Promissory Notes, and the Currency of Money.

A Bill being remitted, the Party is to go immediately to the Person to whom the same is directed, and present the same in Order to Acceptance; if the Person on whom 'tis drawn subscribes it, it is an Acceptance.

Method to be observed on Receipt of a Bill of Exchange.

If it be refused, the Party must procure a Protest and remit the same to the Deliverer, [the Person who paid the Money,] who is to resort to the Drawer for Satisfaction for the Principal, Costs, and Damages. *Molloy, 295.*

If refused, it must be protested and remitted to the Deliverer, and the Drawer must pay it, with Costs and Damages.

It has been held, That a general *Indebitatus* does not lie upon a Bill of Exchange; but an A-

General Indebitatus did not lie on a Bill of Exchange.

156 *Of Bills of Exchange, &c.*

ction on the Case must be brought upon the Custom of Merchants. 1 Vent. 152.

Every Drawer chargeable on a Protest.

Tho' the Drawer is liable on a Protest, the Acceptor is not discharged.

son accepting.

Drawer in England liable tho' no Protest.

But one cannot recover against the foreign Drawer without a Protest.

yond-sea, there must be a Protest before a Publick Notary.

A Servant, &c. in the Absence of his Master, may get a Bill protested.

Bill drawn on two must be accepted by both.

ed; not so where it is drawn upon two, or either of them.

If there be several Drawers who subscribe, all are liable in Case of a Protest. A Protest subjects the Drawer in Case of Non-acceptance or Non-payment, but does not discharge the Per-

To entitle the Party to an Action at Law in England against the Drawer, a Protest is not necessary: But to entitle the Party to a Recovery against the Drawer be-

If a Merchant to whom a Bill is payable be absent or sick, any Friend or Servant of his may cause a Protest to be made.

A Bill drawn on two jointly, must have a joint Acceptance, otherwise it must be protest-

Where

Where a Bill is drawn upon Joint-Traders, an Acceptance by one binds the rest.

Joint-Traders otherwise.

A Bill may be accepted for Part, the Party on whom it is drawn having no more Effects in his Hands, but then there must be a Protest for the Residue.

Bill accepted in Part, a Protest must be for the rest.

Where another accepts the Bill for the Honour of the Drawer, and pays it in Default of the Party on whom it was drawn, he must before Payment make a Protest, with a Declaration that he hath paid the same for the Honour of the Drawer, to intitle him to receive his Money again. *Molloy, 299.*

One pays a Bill for the Honour of the Drawer, he must make a Protest to entitle him to his Money again.

Any Time before the Money becomes due, the Drawer may countermand the Payment, although the Bill has been accepted.

Drawer may countermand the Bill any Time before it becomes due, though accepted.

A Wife or a Servant cannot accept a Bill of Exchange without a special Authority for that Purpose. *Molloy, 302.*

A Wife or Servant cannot accept a Bill without a special Authority.

158 Of Bills of Exchange, &c.

*One promising to pay
a Bill for another,
bound by that Promise.*

If a Bill is drawn on a Person who happens to be in the Country, and a Friend of his desires the Party not to protest it, and he will pay it, this shall bind the Person promising. *ibid.* 304.

*Three Days allowed in
London, after the
Bill becomes due.*

Merchants in London generally allow three Days after a Bill becomes due for the Payment of it, and after that a Protest is made and sent away by the next Post.

*Protest must be made
in Time, &c. or dif-
ficult to recover the
Money if the Party
fails, on whom, &c.*

If one draws a Bill in France upon a Person in England, who accepts it, but becomes insolvent at the Time of Payment.

If there be not a Protest, and timely Notice sent to the Drawer there, it will be difficult to recover the Money : And though the Drawer is generally bound to the Person to whom he gives such

*All lawful Means
must be used to pro-
cure Payment, or the
Drawer will not be
obliged to pay it.*

Bill, yet it is understood to be upon Condition That a Protest be made in due Time, and all lawful Means used for obtaining the Payment of the Money 305.

When

Where the Person on whom a Bill is drawn cannot be found, it is Cause sufficient for a Protest. 306.

Where the Person absconds, sufficient Cause for a Protest.

If a Merchant residing abroad, direct a Bill of Exchange to a Merchant in London, to be paid to a third Person, and the Merchant to whom it is directed subscribes it ; this is an *Assumpsit* in Law, upon which an Action of the Case lies. *Trin. 3 Jac. B. R. Week and Tibald.*

Subscribing a Bill of Exchange, an Assumpsit in Law.

Bills of Exchange have the same Effect between others, as between Merchants ; and a Gentleman shall not avoid the Effect by pleading he is no Merchant. 2 Vent. 295. *Show. 127.*

Bills of Exchange, the same Effect among Gentlemen as among Merchants.

One being indebted 40 l. drew a Bill on a Merchant to pay to the Creditor so much for Value received. The Creditor kept this Note two Years, and never made any Demand either upon the Drawer, or of the Person to whom the Bill was directed : And it was held, That a Note drawn on one to pay Money for Value

If a Bill drawn for Value received, be not tendered or returned in a reasonable Time, if the Party on whom it is drawn, breaks, the Drawee shall bear the Loss.

160 *Of Bills of Exchange, &c.*

Value received, is a good Discharge of a Debt though the Debt be not paid, unless the Creditor returns the Bill in a convenient Time. This Bill was drawn upon a Merchant who happened to fail, which was the Occasion of this Suit. *Show. 156.*

The Indorser may bring his Action on a Bill, where he has not parted with the Property.

for Non-payment ; *Bunce* may bring his Action on the Bill, notwithstanding the Indorsement, for it was proved that *Dale* had no Interest in the Money : And

A Protest may be made on the Copy of a Bill, where the Bill is lost.

A Bill of Exchange is made payable to *Amps* who indorses it to *Bunce*, and *Bunce* indorses it to *Dale*, and it is protested where a Bill is lost, and another Bill cannot be had from the Drawer, a Protest may be made on

a Copy of the Bill. *Show. 163.*

Inland Bills after Acceptance three Days after they are payable, may be protested.

By 9 & 10 W. 3. c. 17.

'tis enacted, That after the 24th of June 1698. all Bills of Exchange drawn in or dated at, and from any Place in this Kingdom, of the Sum of five Pounds Sterling or upwards, upon any Person in London, or any other trading City, Town, or Place,

(in

Of Bills of Exchange, &c. 161

(in which Bills the Value shall be expressed to be received) drawn payable at a certain Time after the Date thereof, may after Acceptance in Writing, and the Expiration of three Days after the same shall be due, be protested by a Notary-Publick; or in Default of such Notary-

The Manner of protesting them.

Publick, by any other substantial Person of the Place before two Witnesses, Refusal or Neglect being first made of due Payment, which Protest shall be made under a Copy of the said Bill, in the Form prescribed in the said Act, and shall be notified

within fourteen Days after, to the Party from whom the Bills were received, who upon producing such Protest, is to repay the said Bills

The Protest to be notified to the Party sending the Bill in fourteen Days, who shall repay the Money with Interest and Charges from the protesting.

with Interest and Charges from the protesting; for which Protest there shall not be paid above Sixpence;

and in Default of such Protest or due Notice

He whose Default it is shall bear the Costs.

hereof, the Person so failing shall be liable to all Costs, Damages and Interest hereupon: Provided, that if any such Inland Bills be lost or miscarry within the Time limited for Payment of the same, the

162 Of Bills of Exchange, &c.

Where such In-land Bills are lost, the Drawer shall give other Bills of the same Tenor.

the said Bills so lost or miscarried be found again.

Promissory Notes payable to the Persons to whom the same are made payable.

Person should promise to pay to any other Person, &c. or Order or Bearer, the Money mentioned in such Note, shall be construed to be by Vertue thereof due and payable to such Person to whom the same is made payable.

If payable to Order, they are assignable as In-land Bills.

as In-land-Bills of Exchange are, and the Person to whom such Money is payable, may maintain an Action for the same as they might upon such Bill of Exchange.

And the Person to whom they are assigned or indorsed, may have his Action against him who signed or indorsed them.

the Drawer of the said Bills shall give other Bills of the same Tenor, Security being given to indemnify him in Case

By 3 & 4 A. enacted. That all Notes signed after the 1st of May 1705. by any Person &c. whereby any such

And also such Notes payable to such Person or Order, shall be assignable over in Manner

change. And the Person to whom such Note so payable to Order, assigned or indorsed may maintain an Action against the Person who signed

signed, or any who indorsed the same as in Cases of In-land-Bills, and recover Damages and Costs of Suit; and in Case of Nonsuit or Verdict against the Plaintiff, the Defendant shall recover Cost against the Plaintiff.

Such Actions to be brought within the Time appointed by the Statute of Limitations.

In Case the Party on whom an In-land Bill of Exchange shall be drawn, shall refuse to accept the same by under-writing the same under his Hand, the Party to whom it is payable, shall cause such Bill to be protested for Non-acceptance, as in Case of foreign Bills, for which Protest shall be paid 2 s. and no more.

If one refuse to accept an In land Bill, it shall be protested as Foreigners Bills are.

Provided no Acceptance of such In-land Bill shall charge any person, unless under-written or indorsed; and if not so under-written or indorsed, no Drawer shall pay Costs, Damages and Interests thereon, unless Protest

No Person chargeable as an Acceptor, unless the Bill be under-written.

And if not under-written, the Drawer shall not pay Costs, &c. unless a Protest be made, and Notice given in fourteen Days.

made for Non-acceptance; and within fourteen Days after Protest, the same sent, or Notice thereof given, to the Party

164 Of Bills of Exchange, &c.

Party from whom such Bill was received, or Notice left in Writing at his usual Place of abode.

And if accepted, the Drawer not liable to Costs, &c. unless a Protest and Notice given as aforesaid, on Refusal of Payment three Days after due.

sent, or Notice given as aforesaid: Nevertheless, the Drawer shall be liable to Payment of Costs, Damages and Interest, if any Protest be made for Non-acceptance or Non-payment, and Notice sent, given or left.

No Protest necessary unless the Bill be drawn for 20 l. and expressed to be for Value received.

drawn for 20 l. or upwards, the Protest to be made by the Persons appointed by 9 & 10 W. 3.

A Man cannot maintain an Action for Part of the Money due on a Bill.

And it was held, That the Plaintiff could not maintain his Action without shewing the other Part to be satisfied.

If such Bill be accepted and not paid within three Days after due, then no Drawer shall pay Costs, Damages or Interest thereon, unless Protest be made and

No such Protest shall be necessary, unless the Value be expressed in such Bill to be received, and unless the Bill be

A, having a Bill of Exchange upon B. indorsed Part of it to F. S. who brought his Action and the Defendant de-

tified; for where a Man's Contract has subjected him to one Action, it cannot be divided so as to subject him to two. *Salk. Rep. 65.*

A. being indebted to

B. indorsed a Bill of Exchange to him, B. having kept the Bill a con-

siderable Time brought an *Assumpsit* against A. for his Debt. And it was held, That this Bill was no Discharge of the Debt, it being no Part of the precedent Contract: But where one sells Goods and accepts a Bill in Payment for them, the Vendee is discharged although the Bill be never paid. *Salk. 124.*

Bill accepted for a Debt, and yet held to be no Payment.

But had it been accepted on a Contract for Goods, it would have been otherwise.

In an Action on the Case on an In-land Bill of Exchange brought by the Indorsee these Points were resolved.

1. A Difference was taken between a Bill payable to a certain

Person, or Bearer, and

to a certain Person or

Order; for a Bill payable

to a certain Person or

Bearer is not assignable,

so as to enable the Indorsee to bring an Action against the Drawer if he refuse to pay, because there is no such Authority given by the first Contract; and the

A Bill payable to one or Bearer, is not assignable so as to entitle the Indorsee to an Action against the Drawer.

164 *Of Bills of Exchange, &c.*

Party from whom such Bill was received, or Notice left in Writing at his usual Place of abode.

And if accepted, the Drawer not liable to Costs, &c. unless a Protest and Notice given as aforesaid, on Refusal of Payment three Days after due.

sent, or Notice given as aforesaid: Nevertheless, the Drawer shall be liable to Payment of Costs, Damages and Interest, if any Protest be made for Non-acceptance or Non-payment, and Notice sent, given or left.

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A. having a Bill of Exchange upon B. indorsed Part of it to F. S. who brought his Action and the Defendant demurred: And it was held, That the Plaintiff could not maintain his Action without shewing the other Part to be satisfied

tified; for where a Man's Contract has subjected him to one Action, it cannot be divided so as to subject him to two. *Salk. Rep. 65.*

A. being indebted to *B.* indorsed a Bill of Exchange to him, *B.* having kept the Bill a considerable Time brought an *Assumpsit* against *A.* for his Debt. And it was held, That this Bill was no Discharge of the Debt, it being no Part of the precedent Contract: But where one sells Goods and accepts a Bill in Payment for them, the Vendee is discharged although the Bill be never paid. *Salk. 124.*

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In an Action on the Case on an In-land Bill of Exchange brought by the Indorsee these Points were resolved.

1. A Difference was taken between a Bill payable to a certain Person, or Bearer, and to a certain Person or Order; for a Bill payable to a certain Person or Bearer is not assignable, so as to enable the Indorsee to bring an Action against the Drawer if he refuse to pay, because there is no such Authority given by the first Contract; and the Effect

A Bill payable to one or Bearer, is not assignable so as to entitle the Indorsee to an Action against the Drawer.

166 Of Bills of Exchange, &c.

Effect of it is only to discharge the Person on whom it is drawn, if he pays it to the Bearer, although he comes to it by Trover, Theft or otherwise: But when a Bill is payable to a certain Person or Order, there an exprefs Power is given to the Party to assign it, and the Indorsee may maintain an Action against the Drawer.

But he may have his Action against the Indorfor.

2. Though an Assignment of a Bill payable to a certain Person or Bearer, be no good Assignment to charge the Drawer with an Action on the Bill; yet it is a good Bill between the Indorfor and Indorsee, and the Indorfor is liable to an Action for the Money.

A general Indebitatus would not lie on a Bill of Exchange.

And it was then held That a general *Indebitatus Assumpsit* would not lie on a Bill of Exchange for want of a Consideration; for it is but an Evidence of a Promise to pay, which is but a *nudum pactum*, and therefore he must either bring a special Action on the Custom of Merchants, or else a general *Indebitatus* against the Drawer for Money received to his Use. *Hodges versus Steward Pasch. 5 W. & M. B. R. Salk. Rep. 125.*

If one Partner accepts a Bill, it binds the other if it concerns their Joint-Trade. *Salk.* 126.

One Partner accepts a Bill, the other is bound.

A blank Indorsement of a Bill, does not actually transfer the Property without some further Act; infomuch that the Person who indorsed it, may bring his Action against the Acceptor notwithstanding: For where a Person has such a Bill indorsed, it is in his Power to act either as Servant to the Indorsor or as Assignee. Indeed, if the Person who had the Bill, had filled up the blank Space, and made the Bill payable to him, that would have testified his Election, and he must receive it as Assignee, and not as Servant to the Indorsor. *Salk.* 126.

A blank Indorsement alone, does not transfer the Property.

If any Person accept such Bill of Exchange in Satisfaction of any former Debt, the same shall be esteemed a full

Person accepting a Bill in Satisfaction of a Debt, deemed a good Payment, unless protested as aforesaid.

Payment, if he doth not his Endeavour to get the same accepted and paid, and make his Protest as aforesaid, for Non-acceptance or Non payment.

Provided, That nothing herein shall extend to discharge any Remedy, any Person may

But he may have his Remedy against the Drawer or Indorsor.

have

168 *Of Bills of Exchange, &c.*

have against the Drawer, Acceptor, or Indorfor of such Bill. This Act was made perpetual by 7 *Annæ*.

Indorfor not obliged to pay, till Application has been made to the Drawer.

The Indorfor of a Bill is not liable to pay it, till Endeavour has been used to find the Drawer in order to demand it, and this Endeavour must be set forth in the Declaration. *Salk.* 126.

Trover lies against a Person who finds a Bank-Bill.

Trover will lie against a Person who finds a Bank-Bill, but not against his Assignee: But the Payment to him that found it, would have indemnified the Bank.

Notice by Common Law should have been given the Drawer.

At Common Law the Drawer was not chargeable, unless he had Notice of the Non-payment of the Person on whom it was drawn, in convenient Time. *Salk.* 127.

Bill accepted after due, well enough.

Where the Time of Payment is past, and one accepts the Bill and promises to pay the Money according to the Tenor of it; although that be impossible, he shall pay the Money however. *Salk.* 127.

In an Action against the Indorfor, there is no need to prove the Drawer's Hand, for although the Bill were forged he is obliged to pay it. It ought to be demanded in convenient Time, or the Indorsee shall not charge the Indorfor: Where one indorses his Name upon the Back of a Bill, the Indorsee may make what Use of it he pleases, either by Way of Acquittance or Assignment to charge the Indorfor.

Drawer's Hand need not be proved in an Action against the Indorfor.

to pay it. It

Money must be demanded in convenient Time to charge the Indorfor.

Bill indorsed, the Indorsee may write what he pleases over it.

And where a Bill is purchased at a Discompt, if it be payable to *A.* or *Bearer*, it is an absolute Purchase, and the Indorfor is not bound to make it good:

Bill payable to Bearer purchased, the Indorfor need not make it good, otherwise if payable to Order.

But if it be payable to *A.* or *Order*, and indorsed blank, and filled up with an Assignment, the Indorfor is bound to warrant it as if there had been no Discompt. *Salk. 128.*

The drawing the Bill implies an actual Promise. *ibid.*

Drawing implies a Promise.

170 *Of Bills of Exchange, &c.*

Acceptance amounts to a Promise.

Acceptance after the Time of Payment is good, and amounts to a Promise to pay the Money. *Salk. 129.*

Action lies now on a promissory Note.

An Action did not lie on a promissory Note before the Statute.

Property is not transferred by Indorsement only.

Indorsement of the Name alone does not transfer the Property of the Bill. *Salk. 130.*

Protest not necessary on In-land Bills, only to intitle the Party to Interest and Costs, &c.

In declaring upon In-land Bills of Exchange against the Drawer, a Protest need not be set forth, and the Want of a Protest by the Statute is no Bar to the Action; but the Statute seems only, in Case there be no Protest, to deprive the Plaintiff of Damages and Interest, and to give the Drawer a Remedy against him for Damages, if he make no Protest. *Salk. 131.*

Convenient Time is to be allowed the Indorsee to demand the Money.

Hill & al' versus Lewis One Moor a Goldsmith subscribed two Notes payable to the Defendant. The Defendant on the 19th of October, indorsed these two Notes, and gave them and eight others to one Zouch to whom he was indebted. Zouch the 19th of October between the Hours of eleven

eleven and twelve, brought these Notes to the Plaintiffs, being Goldsmiths, and they accepted them and gave to Zouch other Bills, and some Money; and afterwards, the Plaintiffs the same Day received Money upon other Bills of the said Moor, and might have had the Money upon these two Bills if it had been demanded, but the Night following Moor broke and run away: The Indorfor was obliged to pay the Money: For the Court held, That the Indorsee may take convenient Time to demand it:

And in Case of a Foreign Bill, he upon whom it is drawn has three Days to pay it, and it need not be demanded

Foreign Bills need not be demanded till three Days after they are due.

until the three Days are expired; and the Indorfor is not discharged without actual Payment, untill there be some Neglect or Default in the Indorsee; as where he does not endeavour to receive the Money in convenient Time, and then the first Drawer becomes insol-

vent. And it was held in this Case, That the same Time ought to be allowed to In-land Bills

The same Time ought to be allowed to In-land Bills as to foreign Bills.

as to foreign Bills. *Salk.* 132.

Though a Note be not payable to Order, yet the Indorser is answerable to the Indorsee.

Indorsee. Salkeld, 133.

Action held to be well brought against the second Indorser, tho' it was not averred that the Money had been demanded of the Drawer or the first Indorser.

If a Note be not payable to Order, and he to whom it is given indorses it, the Indorser only is chargeable to the

In *Harry versus Perrit, Trin. 9. A. B. R.* Action was brought upon a promissory Note against the second Indorser, and the Plaintiff declared without any Averment,

that the Money was demanded of the Drawer, or the first Indorser. And this was held good upon Motion in Arrest of Judgment; for the Indorser charges himself in the same Manner, as if he had originally drawn the Bill. *Salk. 133.*

Tender of hammered Silver Money, void.

By 9 *W. 3. c. 2.* enacted, That no hammered Silver Coin of this Kingdom, shall be esteemed the lawful Coin of this Realm, nor be current in any Payment at any Rate or Value by Weight or otherwise; nor shall the Tender of such hammered Silver Money be deemed a good Tender in Law, nor the Refusal thereof in any Payment be adjudged a Refusal of the lawful Coins of this Kingdom.

By 9 & 10 W. 3. c. 21.
 any Person to whom a-
 ny Piece or Pieces of
 Silver Money shall be
 tendred being diminish-
 ed, otherwise than by
 Wearing, or by the
 Stamp, Impression, Colour or Weight,
 shall be suspected to be counterfeit, he
 may cut, break or deface such Piece or
 Pieces, and thereupon appearing Coun-
 terfeit, the Person tendring it shall bear
 the Loss of it; But if it be of due
 Weight and appear to be lawful Mo-
 ney, the Person who cut it shall take it
 for what it was coined for.

*The Person to whom
 suspected Coin is ten-
 dred, may cut or de-
 face it; but if it
 prove good, he shall
 stand to the Loss, o-
 therwise the Person
 tendring shall bear it.*

If any Dispute arise,
 whether the Piece so
 cut be Counterfeit, it
 shall be determined by
 the Mayor, Bailiffs, or chief Officers of
 the Place where tendred, if a City or
 Town-Corporate; and if not, then by
 the next Justice of Peace of the County.

*Justice of Peace shall
 determine if it be
 Counterfeit.*

A Tender of Money may be made in
 Bags without shewing or telling it, for
 it lies upon him that is to receive it to
 put it out and tell it; but a Tender made
 in foreign Money is not good, unless it
 be made current by Parliament or a Pro-
 clamation. Co. Lit. 208.

C H A P. IX.

Of Coachmen, Chairmen, Carrmen, and Watermen.

Commissioners appointed for licensing Hackney-Coaches, &c.

BY 9 *Annæ*, cap. 23. it was enacted, That the Queen under the Great Seal, might nominate Commissioners for regulating and licensing Hackney-Coaches, the Commissioners not to exceed five in Number, who after the 24th of *June*, 1715. should regulate and licence all Hackney-Coaches within the Bills of Mortality, for thirty-two Years from thence next ensuing.

That the Commissioners or the major Part of them, may under their Hands and Seals licence any Number of Coaches not exceeding eight Hundred, and upon every Licence there shall be reserved the weekly Sum of five Shillings to be paid monthly.

The Commissioners or the major Part of them, may also from and after the 24th of *June*, . licence

two

Of Coachmen, Chairmen, &c. 175

two Hundred Hackney-Chairs within the Bills of Mortality for thirty-two Years, reserving to the Crown the yearly Sum of 10 s. to be paid Quarterly.

That after the said 24th of June, during the said Time of thirty-two Years, no Person shall drive or let to Hire any Hackney-Coach or Horses, for drawing such Coach within the Weekly-Bills, without a Licence from the Commissioners, on Pain of forfeiting 5 l. for every Offence. Nor shall carry any Hackney-Chair for Hire without Licence, under the Forfeiture of 40 s. for every Offence. And no Horse shall be used under the Size of fourteen Hands. And every licenced Coach and Chair, shall have a Mark or Figure on each Side. And where one Person shall be licensed to keep several Coaches or Chairs, they shall have different Figures, and no Person shall put the same Figure on his Coach or Chair, which is appointed for another; or shall blot out or deface the Figure, under the Forfeiture of 5 l.

Driving a Coach without Licence, Penalty 5 l.

Carrying a Chair without Licence, Forfeiture 40 s.

Horses to be fourteen Hands.

Every Coach to have a Figure.

Counterfeiting or defacing a Figure, Penalty 5 l.

176 *Of Coachmen, Chairmen,*

for every Offence, one Moiety to the Crown, the other to the Informer.

Ancient Coachmen preferred. All ancient Coachmen shall be first licenced and their Widows, and ancient Chairmen and their Widows.

Commissioners not to licence more than 800 Coaches on Pain of 100 l.

Rates of Coaches. No Hackney-Coachman shall take for his Hire in and about London and Westminster, or within ten Miles thereof, more than 10 s. a Day reckoning 12 Hours to the Day, or above 1 s. 6 d. for the first Hour, and 1 s. for every Hour after.

From any of the Inns of Court or thereabouts, to any Part of St. James's or City of Westminster (except beyond Tuttle-street,) 1 s. and the same for coming back from these Places.

From the Inns of Court or thereabouts to the Royal-Exchange, 1 s. if to the Tower, Bishopsgate or Aldgate, 1 s. 6 d. and the same Rates to or from any Places of like Distance.

Provided, That no Person shall be obliged to pay more than 1 s. for any Distance not exceeding one Mile and four Furlongs; and if above that Distance, and not exceeding two Miles, 1 s. 6 d.
The

The Commissioners to cause the several Distances to be measured, between the most noted Places within the Weekly-Bills, and cause the same to be fixed at the *Royal-Exchange*.

Hackney - Chairmen shall have no more than the Rate of a Hackney-Coach driven two Thirds of the same Distance. The Commissioners shall publish in Writing the several Rates of Chairmen; and any Hackney-Coachman or Chairman taking more, or refusing to go at that Rate, shall forfeit for every Offence 40 s.

Rates of Chairs.

Refusing to go at such Rates, Forfeiture 40 s.

The Commissioners may appoint Under-Officers with such moderate Allowances, as they shall think fit; and they or any of them, shall not take any Fee or Gratuity for a Licence, other than what is to be paid to the Crown, on Pain to forfeit their Offices, and to be incapable of any Grant thereof, or any other Office; save that the Clerks may take 2 s. 6 d. for en-
grossing each Licence.

Commissioners and Officers to take no Fee for Licences.

*But 2 s. 6 s. for en-
grossing the Licence.*

178 Of Coachmen, Chairmen,

*Commissioners, &c. to
be sworn.*

The Commissioners
and other Officers shall
be sworn to the due Exe-
cution of their Offices.

*Commissioners account-
able to the Treasury,*

The Commissioners
shall pay the Money arising
hereby into the Ex-
chequer, and deliver upon Oath into the
Treasury, Books of Account fairly writ-
ten, containing all the Licences granted
and the Rents and Profits accrued, with
the Names and Surnames of the Persons
to whom granted, once every Year.

*Rents, &c. in Ar-
rear to be levied by
Distress.*

The Rents weekly re-
served, and all other
Rents and Sums of Mo-
ney, and all Forfeitures

and Penalties by this Act, or by any
By-Laws made by the Commissioners
shall be levied by Warrant under the
Hands and Seals of three or more of the
Commissioners, by Distress and Sale
of the Goods of the Offender, which shall
be within ten Days after the Distress
the Overplus returned to the Owner, deducting
the Charges of taking and selling the
Distress and the Warrant, if upon
seven Days Notice the Fine and Pen-
alty is not paid without Warrant. And if
Distress can be had, the Offender shall

*In Default of a Dis-
tress the Offender to
be committed.*

And if
Distress can be had, the
Offender shall

committed by a like Warrant of three or more of the Commissioners, without Bail till the Penalty paid. If the weekly Rent happen to be behind fourteen Days, it shall be lawful for the Commissioners (without demanding the Arrear) to revoke the Licence.

For Rent-Arrear the Licence may be revoked.

Offences against this Act may be heard and determined by three Commissioners in a summary Way, upon the Oath of one Witness or Confession of the Party; one Moiety to the Crown, the other to the Informer.

Offences tried in a summary Way.

A Person sued for putting this Act in Execution, may plead the General Issue, and give the Act in Evidence, and if the Defendant recover he shall have double Costs.

No *Certiorari* shall supersede Execution or other Proceeding upon any Order of the Commissioners.

No Certiorari to supersede Execution.

The Commissioners may make By-Laws, which shall be binding

Commissioners to make By-Laws.

Persons who shall have Licences, and annex such Penalties and Forfeitures as they shall think fit, so as such By-Laws be made for the better putting in Execution, this Act, and for the good Go-

180 *Of Coachmen, Chairmen,*

vernment of the Persons licenced to keep Hackney Coaches and Chairs.

To be approved by the Lord Chancellor and the chief Justices.

Provided, Such By-Laws shall be approved by the Lord Chancellor, and the two Chief Justices and Chief Baron, or by any three of them, and then printed and published.

Punishment inflicted by a Justice of Peace.

And the Punishment for the Breach of By-Laws, shall be inflicted and put in Execution by any Justice of Peace or Mayor, or Head-Officer where the Offence shall be committed.

Money levied to be transmitted to the Receiver.

Such Part of the Penalties as belong to the Crown, shall be transmitted to the Receiver-

General of the Revenues of Hackney-Coaches, and certified to the Commissioners within ten Days after levied, on Pain of forfeiting double the Sum which should have been transmitted and certified, two Thirds to the Crown, the other to the Informer.

How a Coachman shall be proceeded against.

Upon Complaint to the Commissioners that a Coachman hath offended, he shall be summoned, and if he refuses to appear, shall be found guilty of a Misbehaviour by giving abusive Language or other

wil

wife, they are impowered to revoke his Licence.

All Coachmen are permitted to ply on Sundays, notwithstanding the Statute of 29 Car. 2. *May ply on Sundays.*

An Account of the Profits and Duties arising by licensing Coaches and Chairs, shall be made annually before the Auditor of the Imprests.

If any Person refuse to pay a Coachman his just Hire, or shall cut, deface, or break his Coach or Chair wilfully, any Justice of the Peace where the Offence shall be done, may grant a Warrant against the Offender; and upon Proof by Oath, may award reasonable Satisfaction to the Party grieved, for his Damage and Costs; and upon Refusal may bind him over to the next Sessions, which shall finally determine it; and for Non-payment levy the same by Distress.

Coachman abused may have a Justice's Warrant.

Every Hackney-Coachman or Chairman acting under a Licence, who shall be guilty of a Misdemeanour by demanding more than his Fare, or by giving abusive Language, or any other rude Behaviour, being convicted on the Oath of one Witness, before the major

Coachman abusive, forfeits 20 s.

182 Of Coachmen, Chairmen,

major Part of the Commissioners, or any one Justice of the Peace for the City of London or Westminster, or of the Counties of Middlesex or Surrey, (who are impowered to summon them, issue out Warrants, administer Oaths, &c.) shall forfeit, not exceeding 20 s. to the Poor of the Parish where the Offence shall be committed,

and in Default of Payment shall be sent to Bridewell.

Bridewell, or some other House of Correction, there to be kept to hard Labour for seven Days, and have the publick Correction of the House, before he is discharged.

By 10 Anne, cap. 19.
100 Hackney-Chairs more licenced.

The Commissioners for Hackney - Coaches or the major Part of them, are impowered under their Hands and Seals to licence an additional Number of Hackney-Chairs, not exceeding one Hundred after the 24th of June, 1712. during thirty-two Years, so that the Number of Chairs do not exceed the Number of three hundred at one Time: Provided, That such Hackney-Chairs shall pay the yearly Rent of 10 s. by quarterly Payments, and be subject to the same Rules as other Hackney-Chairs.

By

By 12 *Annæ*, it was enacted, That the Commissioners for licensing Hackney-Coaches and Chairs, should in the first Place licence the Widows of such Hackney-Chairmen who died possessed of any Licence, unless such Widows should refuse or neglect to take a Licence within a reasonable Time, to be limited by the Commissioners, but not less than twenty Days.

*Widows of Chairmen
to be preferred.*

By-Laws concerning Hackney-Coaches.

1. That the Perch of every Coach be ten Foot long; that it have cross Leather-Braces before, and hang level; that it be decent, clean, strong, warm, and large enough for four, and that it have able Horses on Pain of 10*l*.

*How Coaches shall be
fitted out.*

2. A Coachman not having his Number visible on each Door, shall forfeit 5*l*. Provided, at a Funeral, the Figures may be placed on each Standard of the Coach or Hearse.

*To have a Number on
each Door.*

3. Coaches shall not stand over-against *Westminster-hall* Gate, or on the East-side thereof, or within ten Foot of the Corner of *Oliver's* Coffee-house on the West-side thereof, or against any Part of the *Royal-Exchange*, or in *Guildhall-yards*.

Stands for Coaches.

184 *Of Coachmen, Chairmen.*

yard, or before the Gates of *St. Paul's* or within three Yards of the same, or before the *New-Exchange*, or nearer to *St. James's* than the End of the *Friery* in *Pall-mall*, and the *Thatched-house* in *St. James's-street*, or within twenty Yards of the Doors leading to the *House of Lords* or *Court of Requests* in the *Old-Palace-yard*, in Time of Parliament, or against either of the *Serjeant's-Inns* or any of the *Inns of Court*, or nearer the End of *Threadneedle-street* next *Stocks-market* than the *Globe-Tavern*; but as soon as he has set down his Fare, the Coachman shall drive from before any of the said Places, and wait for another Fare at a convenient Distance. No Coach to stand between *Bishopsgate* and *Devonshire-street* End, or between *Cragg's-Court* by *Charing-Cross*, and the first Gate of *Scotland-yard*, or in *Little-Russel-street* on either Side of the Way, or in *Bedford-street* or *Great-Russel-street*, except in the Middle, or in any of the High Streets that are thirty Foot wide between the Posts, or thirty-five Foot between the Houses where there are no Posts, unless in the Middle of such High Streets; or on the South-side of the Street between *Serjeant's-Inn* in *Fleet-street* and *Temple-bar*, or between the *Queen's-Head-Tavern* and *Temple-bar* on the North-side of the said Street; and not
above

above six at a Time between the East End of *St. Dunstan's Church* and the *Queen's-Head-Tavern* on the North-side, and none before the said Church, and none between *St. Clement's-Porch* and *Temple-bar*, except four in the broad Way between *Butcher-row* End and *Temple-bar* on the North-side of the Way, and at two Yards Distance the one from the other, and the same Distance to be observed in all Places except *New-Palace-yard*, or where the standing is against a dead Wall, on Pain of 10 s. for every Offence.

No Coachman shall stand cross any Street, *Rules for their Behaviour.* Passage or Alley, or within eight Foot of the Houses or Shops, or feed his Horses there unless with Oats out of a Bag, or Hay out of his Hand, or refuse the Way to a Gentleman's Coach, or hinder any other Hackney-Coachman to take up or set down his Fare, or back his Coach before *Westminster-hall-gate*, or break his Rank in the *Palace-yard* or elsewhere, or stand two a-breast except in the *Palace-yard* and *West-Smithfield*, on Pain of 10 s.

5. Coachman refusing to appear before the Commissioners when summoned, shall forfeit 10 s. and if he stand out a third Summons, the Cause shall

Coachmen to appear on Summons.

186 *Of Coachmen, Chairmen,*

shall be heard in his Absence, and such Fine and Penalty imposed as shall be due to the Offence; every Summons to be in Writing, and left with the Party, or at his Place of Abode: And if any licenced Person neglect to give an Account of the Place of his Abode, and of his Renter (if any) within fourteen Days after the Change of a Renter, or give a wrong Information, it shall be lawful for the Commissioners to revoke the Licence.

Person hiring a Coach, to have it to himself. 6. No Person shall ride in or about a Coach after it is hired, without Leave of the Person hiring the Coach, nor shall any Person drive a Coach but the proper Driver, who came out with it in the Morning: Nor shall a Driver be absent from his Coach, on Pain of 10 s. for every Offence.

Persons may agree for less than the Fare. 7. Coachman agreeing to take less than his Fare, shall not demand more afterwards than he agreed for, on Pain of forfeiting a Sum not exceeding 20 s.

Penalty of giving a wrong Number. 8. A Coachman hiring any Person from taking his Number, or giving a wrong Number by Word or Mouth, he shall forfeit a Sum not exceeding

ceeding 40 s. at the Commissioners Discretion.

9. Coachman opposing or refusing to obey the Officers of the Commissioners in making Distresses, apprehending Persons, &c. or shall give ill Language or abuse any Person, who shall apply himself to the Commissioners, he shall forfeit a Sum not exceeding 10 s. to be imposed by the Commissioners.

Penalty of disobeying the Orders of the Commissioners.

10. Where a Licence shall be revoked, Notice shall be given thereof to the Owner of such Licence, or left in Writing at his Place of Abode, (if that be known;) and if not, with his Renter signed by the major Part of the Commissioners; and in Case no Renter be entred in the Office, then such Notice shall be set up in some publick Place in the Office, which shall be deemed sufficient Notice of such Revocation.

Notice to be given to the Party where a Licence is revoked.

11. These Orders to extend ten Miles beyond the Bills of Mortality, and the same Things shall be judged Offences any where within that Compass, as if committed in Town.

By-Laws in Force ten Miles beyond the Bills of Mortality.

12. No.

188 Of Coachmen, Chairmen,

*No Licence to be let
for less than fourteen
Days.*

12. No Person shall let his Coach-Licence for less than fourteen Days, on Pain of forfeiting a Sum not exceeding 40 s. and such Letting shall be void.

*Penalty for not ap-
plying to the Commis-
sioners for Plates for
their Numbers.*

13. No Coachman shall use more than two Tin-Plates of one Number, and if they shall be lost or worn out, he shall not presume to mark the Number on his Coach himself, without Leave in Writing from the Commissioners, which shall express for how long Time the same is given. And if after such Time expired, any Person shall continue to work without proper Plates, or shall have more than two Tin-Plates of the same Number at one Time, or shall have a Tin Plate of a Number belonging to another Licence, he shall forfeit 5 l.

*Driver not able, his
Master shall pay the
Penalty.*

14. The Forfeiture and Penalties aforesaid incurred by the Driver shall be levied upon the Renter, if he be entered in the Office or otherwise upon the Person licenced in Default of the Driver's paying the same unless he shall be produced by the Renter, &c. so as he may be apprehended by the Process of the Commissioners

And

And where the Driver is under fifteen Years of Age, the Renter or Person licensed, shall pay the Forfeitures and Penalties he incurs.

15. None but a licenced Person, or his or her Agent, shall let out a Coach-Licence, nor shall such Agent let the same in his own Name, nor for more than the Rent payable to the licenced Person, on Pain of forfeiting a Sum to be imposed by the Commissioners, not exceeding 2 s. 6 d. for every Day that the same shall be so let, to be levied on the Owner of the Licence or Renter offending therein.

Licences not to be farmed and then let out again at a higher Rate.

*At the Office for Hackney-
Coaches and Chairs in
Surrey-street in the
Strand, May 9. 1717.*

| | | |
|----------------|---|-----------------------|
| John Wray, | } | <i>Commissioners.</i> |
| Tho. Sutton, | | |
| More Molyneux, | | |
| Cha. Bernard, | | |
| J. Idle, | | |

We approve of the Orders, By-Laws and Ordinances above-written,

Cowper, C.
Parker, Ch. J.
P. King, Ch. J. C. B.
Tho. Bury, Ch. Bar.

CARR-

CARRMEN.

Ward, Lord-Mayor.

*Jovis vicesimo Die Octob. 1681. Annoque
Regni Regis Caroli secundi, Angliæ, &
tricesimo tertio.*

FOR Prevention of many Incumbrances and Annoyances which daily happen to the Streets and Passengers, by the irregular and disorderly standing of Carrs, and passing up and down the Streets; it is ordered by this Court, That the present Number of Carrs licenced, or that shall be licenced by the President and Governors of *Christ's Hospital*, to work within this City and the Suburbs thereof for Hire, pursuant to an Act of Common-Council, of the 15th Instant, shall from henceforth observe and keep such Stations and Places and Rules of the standing of their Horses and Carrs in the several Streets of this City, and passing up and down the Streets, as are hereafter limited and appointed, and that they shall stand in no other Places within this City or Liberties thereof, nor in any greater Number than is hereafter set down. That is to say,

Fro

From Brewer's Key a- Stations for Carts.

long Thamesstreet to the
first Custom House Gate, twelve ; from the
West Gate of the Custom-House to Porters
Key, two ; from Porters Key to Little Bear
Key, three ; from Little Bear Key to Young's
Key, four ; from Young's Key to Ralph's
Key, three ; from Ralph's Key to Great
Dice Key, two ; from Great Dice Key to
Smart's Key, two ; from Little Summer's
Key to Botolph's Wharf, two ; from Bo-
tolph's Wharf to Cox Key, two ; from
Cox Key to Fresh Wharf, two ; from
Fresh Wharf to St. Magnus Corner, six ; at
St. Dunstan's Hill, four ; from New Fish-
street to the Still-Yard, sixteen ; from the
Still-Yard to the Crooked Billet Wharfs,
twenty ; from the Crooked Billet Wharfs to
the Black Swan, twelve ; from the Black
Swan to Brook's Wharf, twelve ; from
Brooks Wharf to Castle Alley, twenty ; from
Paul's Wharf to Puddle Dock, ten ; from
Vere's Key, and all Places thereabouts that
have Passages up Puddle Dock Hill, twen-
ty ; (and that all Carts standing in Thames-
street, shall stand on the South Side of the
said Street only) at Black Friars, six ;
Bridewell, ten ; Carter Lane, five ; Salis-
bury Court, ten ; on the East Side of Fleet
Ditch, five ; on the West Side of Fleet
Ditch, five ; at White Friars, five ; at
Bridewell Dock, five ; a little upon
Holborn

192 Of Coachmen, Chairmen,

Holborn Hill Westward, four ; Eastward of Holborn between the Bridge and King's Arms, two ; West Smithfield and about the Bars, fifteen ; Aldersgate, six ; Breadstreet, six ; Fridaystreet, six ; Aldermanbury, two ; Silverstreet, two ; Bassishawstreet, two ; Broadstreet, four ; Bishopsgate without, six ; Bishopsgate within, eight ; St. Mary Axe and up Camomile-street, six ; without Aldgate towards White Chapel, ten ; Crutchet-Friars, ten ; Cross Lane from St. Dunstan's Hill to Harp Lane, six ; Dukes Place, six ; Burystreet, four ; Lawrence Pountney Lane and the Passage into Suffolk Lane, four ; Dowgate Hill, six ; Colemanstreet, four ; Philpot Lane, four ; Botolph Lane, five ; Harp Lane, six ; Bear Lane, six ; in Fenchurchstreet where the Church and Pump stood, four ; Leadenhallstreet between the East-India House and Pump, three ; Limestreet, two ; and in the Weigh-House Yard, one.

And it is ordered by this Court, That if any Carrman or Carrmen shall at any Time hereafter be found standing in any other Place or Places within this City or Liberties thereof, unless it be during reasonable Time for loading or unloading of Goods and Commodities ; or any greater Number of Carrs in any the Places aforesaid than is hereby limited and appointed ; every Offender or Offenders coming into any of the aforesaid

Place

Places after the same, shall be full of the Number of Carrs before limited, shall forfeit for the first Offence the Sum of five Shillings, for the second and every other Offence, ten Shillings.

That no Carter or Carrman shall hereafter come into *Thames-street* by *St. Magnus Corner* Eastward, with his or their empty Cart or Carr before such Time, as he or they shall be hired to come into the same Street for Lading or Carrying: But that the Lanes and Passages hereafter mentioned shall be used only for such empty Carrs to pass and take their Way through into the said Street, and no other, that is to say, the Lane leading down to *Tower-dock*, *Bear-lane*, *Harplane*, *Botolph-lane*, *Pudding-lane*, *St. Michael's-lane*, *St. Lawrence Pountney-lane*, *Bushlane*, *Trinity-lane*, and all other Lanes Westward, except the Lanes and Places hereafter limited for loaden Carts to pass through from the said Street.

And that all Carrs and Carts loaden, passing out of and from *Thames-street*, shall from thence pass and go up through these Lanes and Places following, or some of them, and no other, That is to say, the Hill leading from *Tower-dock* to the East end of *Tower-street*, *St. Dunstan's hill*, *St. Mary-hill*, *St. Martin's-lane*, *Dowgate-hill*, *Garlick-hithe*, *Breadstreet-hill*,

and that no empty Carr or Cart passing to the said Street (other than such as having been unladen in some of the Lanes or Places beforementioned, shall be occasioned to pass to the said Street immediately after such unloading) shall go down the Hills, Lanes, or Places last beforementioned: But the same shall be kept only for the passing of Carrs and Carts laden. But that as well the said empty Carrs, as Carts laden, shall and may pass into and from *Thames-street*, through the several Lanes and Places hereafter mentioned; That is to say, *Fishstreet hill*, *Whittingtonlane hill*, and the *Wardrobe hill*, except as before is limited. Also that all Carrs laden, may go into the said Street, down all Places as shall be best and most easy for them, as hath been always accustomed, upon Pain that every Carrman offending in any of the aforesaid Particulars, shall forfeit and pay for his or their first Offence, five Shillings, and for their second and every other Offence the Sum of ten Shillings.

And it is further ordered, That it shall be free for all Merchants, Shopkeepers and others that have Occasion to use Carrs or Carts, to chuse what Carr they shall please to be impolyed in their Work, except such as stand for Wharf work

work, Tackle-work, and Crane-work, which are to stand in Order and be taken in Turn, and that every Carrman who stands with his empty Cart, next to any Goods that are to be loaden, shall on the first Demand load the same without any Delay, or bargaining for any other Wages, than is or shall be duly ordained and appointed: And if the first, next or other Cart shall refuse or delay to load any Goods upon Request made, every Person so refusing shall forfeit five Shillings for every such Offence, and then the next Cart in Order, or any other that shall be willing thereto, shall be at Liberty to take the same.

Further it is ordered, That all the Posts, Chains, Rails and Seats, that have been at any Time within twenty Years last past, set up and erected within any of the Streets, Lanes or Passages hereby limited as aforesaid, for the Passage of Carrs and Carts into, and from *Thames-street*, that may any way obstruct the said Passage, shall be forthwith taken up and removed.

And to the End all Persons concerned may take Notice hereof, it is ordered by this Court, That this Order be forthwith printed and published within this City and Liberties thereof.

London, ff. *Ad General' Quarterial' Sef-
 sion' Pacis Dom' Regis & Reginae teni'
 pro Civitat' London, apud Guibald
 ejusdem Civitat' ac infra eandem Civitat'
 die Luna, scil' duodecimo Die Octobris
 Anno Regni Dom' nost' Will' & Maria,
 Dei Grat' Angl' Scot' Franc' & Hibern'
 Regis & Reginae, Fidei Defensor', &c.
 tertio; coram Thoma Pilkington, Milite',
 Majore Civitat' London, Patient Ward,
 Milite', Johanne Moor, Milite', Jona-
 than Raymond, Milite, & Petro Da-
 niel, Milite, Aldermannis Civitat' prad'
 Justic' dictor' Dominor' Regis & Re-
 ginae, ad pacem in Civitat' prad' conser-
 vand' necnon ad divers' Felon' Tranf-
 gression' & al' Malefacta infra eandem
 Civitat' perpetrata audiend' & termi-
 nand' assignat.*

WHEREAS daily Complaints
 are made by Merchants and o-
 ther Citizens, and Inhabitants within the
 City of London and Liberties thereof, of
 the excessive Rates de-
Rates for Carts. manded and received by
 Carrmen above what is reasonable, and
 hath been limited and appointed for Car-
 riage

riages within this City and Liberties, and upon due Consideration had, as well of former Times as of the present, wherein several Materials of necessary and principal Use to the Carrmen are risen, and consequently require some increase of Rates heretofore set for their Labour and Carriage; now the said Justices of the Peace here assembled, respecting the Times and other Circumstances necessary to be considered, do by Authority and Virtue of the Statute in this Case made and provided, order, limit, rate and appoint the Wages for Carrmen, within the City of *London* and Liberties thereof, to be as hereafter followeth:

First, That all Carrmen trading or working with Carrs in the City of *London* and Liberties thereof, shall and may demand and take for every Carriage or Load of the Commodities undermention'd, the Rates hereafter following; and shall not exceed the same upon Pain to be strictly punished and proceeded against for every Offence to the contrary. That is to say,

From any of the Keys below the Bridge, for a Pipe of Wine or three Hogsheads to the *Old Swan*, 1 s. 6 d.

From *Billingsgate* to *Queenhithe*, for an old Wey of Salt, 2 s. 6 d.

And for a new Wey of Salt from and to the said Place, 2 s.

From any the Wharfs between the Tower and London bridge, to Towerstreet, Gracechurchstreet, Fenchurchstreet, Bishopsgatestreet within, Cornhill, and Places of the like Distance, up the Hill, with eighteen hundred Weight, not exceeding twenty hundred Weight, 2 s. 2 d.

And being above twenty hundred weight two Pence for every Hundred.

Provided the Carrmen for this Rate and all other Rates herein contained, do help to load and unload their Carrs.

In which may be included,

Two Puncheons of Prunes, two Bales of Mather, twenty Barrels of Figs, two Fats of Fustians, six ordinary Sacks of Cotton-Wools of Smyrna, and three Cypress Bags, a Butt of Currants, a great Butt of Oils, three Chests of Sugar, eight Bags of Alums, one Last of Flax, one Last of Hemp, and any other Goods herein not named, of the like Weight, for every Load 2 s. 2 d.

And for Sea-Coal the Load fourteen Pence, every Load to be half a Chaldron; and for an hundred Faggots the like Rate.

And from any the Wharfs aforesaid, to Broadstreet, Lothbury, Old Jury, Bassishaw, Colemanstreet, Ironmongerlane, St. Lawrence-lane,

lane, Milkstreet, Aldermanbury, Cheapside, Woodstreet, Fridaystreet, Breadstreet, and Places of the like Distance, for the like Weight of eighteen hundred, not exceeding twenty hundred Weight for the Goods aforesaid, and other Goods therein not named, of the like Weight, for every Load 2 s. 6 d.

And being above twenty hundred Weight, for every Hundred 2 d.

And for Sea-Coals, the Load sixteen Pence, every Load to be half a Chaldron; and for an hundred Faggots the like Rate.

Also from any the Wharfs aforesaid, to *Smithfield Bars, Holborn Bars, Temple Bar,* or any of the Bars on the North Side of the City, and Places of like Distance, up the Hill, with eighteen hundred Weight, not exceeding twenty hundred Weight, for every Load 3 s. 4 d.

And going beyond the said Places, the Parties to agree with the Carrmen.

Also from any the Wharfs aforesaid, to *Towerstreet, Bishopsgate within, Cornhil,* and other Places of like Distance up the Hill, with Fourteen hundred Weight, not exceeding eighteen hundred weight, 1 s. 10 s.

In which may be included,

Twenty Pieces of Raifons, a Load of Raifons in the Sun, six Bags of Pepper, six ordinary Bags of Gauls, three great

200 *Of Coachmen, Chairmen,*

Bags of Gauls, six Bales and Barrels of Indico, six Bales of Grogam Yarn, six Bales of *Turkey* Silk, five Hogsheads of Cloves, four Bales of Callicoes, three Hogsheads of Wines, two Chests of Sugar, or any other Goods of the like Weight; five Hogsheads of Tobacco, not exceeding eighteen hundred Weight, 1 s. 10 s.

Also from any the Wharfs aforesaid, to Broadstreet, Lothbury, Old Jury, Bassishaw, Colemanstreet, Ironmongerlane, St. Lawrence-lane, Milkstreet, Aldermanbury, Cheapside, Woodstreet, Fridaystreet, Breadstreet, and Places of the like Distance, for any of the said Goods of the same Quantity and Weight, for every Load 2 s.

Also from any the Wharfs aforesaid, to Towerstreet, Gracechurchstreet, Fenchurchstreet, Bishopsgatestreet within, Cornbil, and other Places of like Distance up the Hill, with eight hundred Weight, not exceeding fourteen hundred Weight, 1 s. 6 d.

In which may be included,

All Butts and Pipes of Wine, or a Pipe of Oil, Packs of Canvas, two Hogsheads or three Tierces, a Fat of Fustians, and all other Goods of the like Bulk and Weight, for every Load 1 s. 6 d.

Also from any the Wharfs aforesaid, to Broadstreet, Lothbury, Old Jury, Bassishaw, Colemanstreet, Ironmongerlane, St. Lawrence-lane, Milkstreet, Aldermanbury, Cheapside, Wood-

Woodstreet, Fridaystreet, and other Places of the like Distance, for any other Goods of like Load or Weight, for every Load 1 s. 8 d.

Also from *London bridge Foot Westward to the Old Swan, Cole Harbour, the Three Cranes, Queenhithe, Broken wharf, Paul's wharf, Puddle wharf, the Wardrobe, and to all other Places not exceeding the Poultry, Cheapside, or Newgate Market, for thirteen hundred Weight, not exceeding eighteen hundred Weight, 1 s. 10 d.*

And for every Load of Sea-Coals fourteen Pence, every Load to be half a Chaldron, and one hundred of Faggots the like Rate.

And from all other Wharfs and Places between *London Bridge and Temple Bar, to the same, and Places of the like Distance, for every Load of Coals fourteen Pence, every Load to be half a Chaldron; and a hundred of Faggots the like Rate.*

And to all Places Northward, of the *Poultry, Cheapside, Newgate Market, Holborn Bridge and Fleetstreet, for fourteen hundred Weight not exceeding eighteen hundred Weight, 2 s. 2 d.*

And from *Towerstreet, Gracechurchstreet, Fenchurchstreet, Bishopsgatestreet within, Cornhill, and other Places of the like Distance, for every Pack of twenty Cloaths, for six Bales of Cloaths and Kersey, six*

Bales of Pepper, six Barrels of Indico, five Hogsheads of Cloves, and for other Goods not herein mentioned, of the like Weight to the Waterside, 1 s. 4 d.

And from *Broadstreet, Lotbury, Old Jury, Bassishaw, Colemanstreet, Ironmongerlane, St. Lawrencelane, Milkstreet, Aldermanbury, Cheapside, Woodstreet, Fridaystreet, Breadstreet*, and other Places of the like Distance to the Waterside, for the like Weight 1 s. 8 d.

And for Places nearer or of less Distance, the Parties hiring and to be hired, are to make Agreement answerable or proportionable to the Rates before mentioned.

And if any Carrman shall take for his Labour and Hire, above the Rates before limited and appointed, and the same be duly proved by the Testimony of one or more credible Witness or Witnesses before the Lord Mayor, or any two of their Majesties Justices of the Peace, or otherwise within the City of *London*, such Carrman shall suffer Imprisonment by the Space of one and twenty Days without Bail or Mainprize, according to the Statute in this Behalf; and shall undergo such further Pains and Penalties as by the Law may be inflicted for the said Offence.

And to the End that all Carrmen
may

may be encouraged duly to observe the several Orders and Rates herein before limited and appointed, it is farther ordered, That if any Merchant, Tradesman or others, shall at any Time hereafter refuse to pay to any Carrman or Carrmen, his and their Hire or Wages, according to the several Rates herein before ordered and appointed, that then it shall be lawful, and it is hereby ordered, That such Carrman or Carrmen do make his and their Complaint to the President of *Christ's-Hospital* for the Time being, or to any of their Majesties Justices of the Peace within the said City of *London*, who are hereby desired to compel the Payment of such Hire and Wages, and to enforce the due Observance of all and every the Orders above mentioned according to Law and Justice.

And farther it is ordered, That if any Merchant or Person whatsoever, shall cause any Carrman to stay or attend at his House, Shop, Warehouse or Cellar, with his loaden Carr above half an Hour before he unloads, such Carrman being willing to help to unload the same, such Merchants or others shall pay such Carrmen after the Rate of twelve Pence an Hour, after the said first half Hour, for his said Attendance.

GOODFELLOW.

K 6

The

The Statutes concerning Watermen.

*Eight Overseers to be
chosen yearly.*

BY 2 & 3 of Ph. & M. cap. 16. it was enacted, That at the first Court of Aldermen in London next after the first of March 1555. out of the Watermen between *Gravesend* and *Windsor*, there should be eight chosen for Overseers, who should have Power to keep good Order among the rest.

None to carry Passengers who have not served two Years.

That two Watermen should not carry any Person, but where one of them hath exercised that Profession two Years, and hath been allowed by the greater Part of the said Overseers under their known Seal, in Pain of being committed to one of the Counters by the said Overseers for one Month, or any less Time.

That no single Man who is not a Householder, or retained as Apprentice or Servant for one Year at least, should exercise the Profession betwixt the Places aforesaid, on the like Pain.

*Court of Aldermen
and Justices of Peace
to hear Offences.*

That the Lord Mayor and Aldermen, and the Justices of Peace within the Counties adjoining to the River
Thames,

Thames, upon Complaint of any two of the Overseers, or of any Waterman's Master, shall have Power not only to hear and determine any Offences committed against this Act, and to enlarge any Waterman unjustly punished by the said Overseers, but likewise to inflict Punishment upon the Overseers themselves, in Case they unjustly punish any Person by Colour of this Act.

That every Wherry which is not twelve Foot and half long, and four Foot and an half broad in the Middship, and sufficient to carry two Persons on one Side right, shall be forfeit, one Moiety to the Crown, the other to the Informer.

The Dimensions of a Wherry.

That every Waterman who withdraws himself in Time of Pressing, shall suffer a Fortnight's Imprisonment, and be disabled to row upon the River *Thames* for a Year and a Day.

Punishment of a Waterman withdrawing himself.

That the Overseers shall summon the Watermen before them, and cause them to register their Names; and shall also examine their Boats before they are launched, whether they are of that Pro-

Boats to be examined before launched.

206 *Of Coachmen, Chairmen,*

Proportion and Goodness which this Act requires.

That every Overseer refusing or neglecting to do his Duty, shall forfeit 5 l. one Moiety to the Crown, the other to the Informer.

Court of Aldermen to assess the Fares.

That the Lord Mayor and Court of Aldermen shall assess the Fares of Watermen between *Gravesend* and *Windsor*, which being subscribed by two or more of the Privy Council, shall be set up in *Guild-hall*, *Westminster-hall*, and other notorious Places.

Waterman taking more, to be imprisoned half a Year, and forfeits 40 s.

And every Waterman who takes more than his Fare so assessed, shall for every Offence suffer half a Year's Imprisonment, and forfeit 40 s. to be divided between the Crown and the Prosecutor, to be recovered in any Court of Record, &c.

Who may retain Apprentices.

By 1 Jac. 1. 16. it was enacted, That no Waterman should retain any Servant or Apprentice, unless he himself had been an Apprentice to a Waterman for five Years, and none should be taken Apprentices under eighteen Years of Age: (*But this Clause as to the Age, is repealed by 4 Annæ, cap. 13.*)

That

That the eight Overseers shall yearly upon the first Day of *March*, and the first Day of *September*, cause openly to be read in their Common Hall all their Orders, in Pain that every of them for every Default, shall forfeit twenty Nobles, to be divided between the Crown and the Prosecutor.

Orders to be promulged yearly.

By 11 & 12 W. 3. cap. 21. it was enacted, That all Laws in Force, touching Watermen and Wherry-men not thereby repealed or altered, should be duly put in Execution: And that every Lighterman or Owner, Keeper, or Worker of any Lighter or other large Craft, on the *Thames* between *Gravesend* and *Windsor*, should be taken to be of the Society or Company of Wherry-men and Watermen, which Watermen, Lightermen and Wherry-men, are thereby erected into a Society or Company.

Watermen and Lightermen erected into a Company.

That all such Lightermen on the River *Thames*, (except Trinity-men, Fishermen, Ballast-men, western Barges and Mill-Boats, Chalk-Hoys, Faggot and Wood-Lighters, and other Craft carrying the same,) shall be registred in a Book kept by the Company

Every Member of the Company to be registred.

pany of Watermen and Lightermen, and be liable to the Rules of the said Company.

The Court of Aldermen yearly to elect Rulers.

That the Lord Mayor and Court of Aldermen, shall yearly elect eight of the best Watermen, and three of the best Lightermen, at the first Court of Aldermen next after the first Day of *June*, to be Overseers and Rulers of the said Watermen, &c. who shall maintain good Orders amongst them, and cause the Names of the Lightermen to be registred at their Hall after the 29th of *June*, 1700.

Assistants to be chosen.

That the said Rulers and Assistants, shall at their first Court after the first Day of *June* yearly, appoint the Watermen of the principal Towns and Stairs between *Gravesend* and *Windsor*, to choose their Assistants, not exceeding sixty, nor less than forty Watermen; and then also shall appoint the Lightermen to choose nine Lightermen, who with the Watermen, shall be the Assistants of the said Company, for preserving good Government amongst them.

Auditors to be chosen.

Who on the first Day of *July* yearly, shall present to the Court of Aldermen, five Watermen and two Lightermen, to be Auditors

ditors of the said Company for auditing Accompts of the Rulers, &c.

And Persons elected Rulers, Assistants or Auditors, refusing or not well exercising their Offices, shall forfeit $\text{5} \text{ } l$.

That the said Rulers, Auditors, and Assistants may make Rules with Penalties, for the good Government of their Society; which being approved by the Court of Aldermen, and also by one of the Chief Justices shall be binding.

By-Laws to be approved by the Court of Aldermen and Chief Justice.

That the Lord Mayor and Aldermen, and the Justices of Peace in the Shires next adjoining to the *Thames* between *Gravesend* and *Windsor*, in their several Jurisdictions, upon Complaint of the Overseers and Rulers, shall hear and determine Offences contrary to this Act, and levy the Penalties by Distress.

Penalties to be levied by Distress by Warrant from a Justice of Peace.

That Persons owning or working any Lighter or Flat-boat, for unloading Goods and Merchandizes from Ships, and registering themselves and Servants in the said Company's Books by the 29th of September, 1700. are thereby declared Lightermen: And none but such registered Persons, (besides free Watermen here-

Who may serve as Lightermen.

210 *Of Coachmen, Chairmen,*

hereafter registred as Lightermen, and such as have served their Time to Lightermen,) shall keep or work any Lighters under Penalty of 5 *l.* per Week.

Who may row as Watermen.

That none, except Trinity-Men, shall row or ply on the said River in Boats, for carrying Passengers for Profit, but such as have served their Time, or are Servants or Apprentices to Watermen: And all the Penalties in this Act, shall be paid to the said Rulers and Overseers, for the Use of the Poor and Decay'd of the said Society.

Persons may use their own Lighters.

That the Owners, &c. of any Keys betwixt Hermitage bridge and London bridge, may use their own Lighters as heretofore, imploying therein qualified Watermen or Lightermen: And Woodmongers may keep and work Lighters by themselves and Servants for carrying their own Goods only.

Or Boats.

That Persons keeping Lay-stalls may carry the Soil thence as heretofore, and Gardner may bring to Markets their Garden-stuff and carry Soil in their Boats by their own Servants as heretofore.

Offence

Offences against this Act must be prosecuted within thirty Days. Offenders punished by this Act, shall not incur the Penalty of any other for the same Offence.

Offences to be prosecuted within thirty Days.

That the said Rulers, Auditors, and Assistants on their Court Days, may appoint forty Watermen to ply on Sundays between *Vauxhall* and *Lime-house*, for carrying Passengers cross the River at a Penny each: Which Watermen shall accompt next Day for the Money to the said Rulers, who are to pay them for their Labour, and apply the Over-plus to the poor decayed Watermen or Lightermen of the Company and their Widows.

Watermen to ferry over the River on Sundays.

The Waterman who neglects to pay the whole Money so earned, on the Monday, shall forfeit 40 s.

The Rights of the Lord of the Manor of *Gravesend* saved.

The Rights of the Mayor and Jurats of *Gravesend* saved.

The Watermen of *St. Margaret's Westminster* and the *Horse-Ferry* there, may ferry over Passengers on Sundays as heretofore.

By

212 *Of Coachmen, Chairmen,*

By 4 & 5 *Annæ*, cap. 13. Those Clauses in the 1st of *Jac.* 1. that restrain the taking of Apprentices till the Age of eighteen, &c. And the Rates and Orders made by Vertue of the 11 *W.* 3. cap. 21. for restraining Watermen free of the Company, from taking and breeding Apprentices, are repealed and made void.

And the Court of the
Court of Aldermen
impowered to alter
By-Laws. Lord Mayor and Aldermen, are authorized and impowered to alter and amend By-laws, relating to the Company of Watermen and Lightermen, such Amendments being approved by the Lord Chief Justice.

By-Laws concerning Watermen.

The Lord Mayor and Court of Aldermen, at a Court holden at *Guildhall, London*, the 23^d Day of *March*, 1707. in pursuance of the Power and Authority given them by the abovesaid Acts, having reviewed and examined the By-Laws then in Force, did amend and settle them in Manner following.

General Courts. 1. That the Ruler shall annually summon four General Courts, viz. In *May*, *August*, *November* and *February*; and oftner if twenty of the Auditors and Assistants unde

under their Hands, desire the same, which Summons shall be left at their respective Dwellings, three Days before the holding of such Court, under the Hand of the Clerk: And the Ruler or Clerk neglecting his Duty herein, shall forfeit 5 l. to the Use of the Poor of the said Company.

2. That the major Part of the said Com- *Chairman chosen.*
pany being assembled, they shall proceed to choose a Chairman; and if such Chairman shall leave the Chair, without Consent of the Court, he shall forfeit 5 l. and if any Member of the Court behave himself disorderly, he shall forfeit five Shillings.

3. That the Clerk, *Officers elected.*
Beadles, and other Officers, shall be annually elected in December. That the Clerk shall keep a Book, and duly enter the Minutes of all Orders therein, and draw up the Orders within four Days after the Court, and present them to the next Court to be approved: And after such Approbation, shall within six Days fairly enter such Orders in a Book to be kept for that Purpose, under the Penalty of 40 s. for every Omission.

Several

212 Of Coachmen, Chairmen,

Several of these By-Laws, as may be observed by the three first, regarding the particular Affairs of the Company, I shall only give the Reader the Titles of such, the inserting of them being foreign to our Purpose; but where they relate to Water-Carriage or Passage, I shall give them more at large.

4. Orders to be observed by every Court of Rulers.

5. The Penalty of any Member's taking Money to give his Vote.

6. A Ruler, Auditor, or Assistant, convicted of Corruption, to be dismiss'd.

7. Members of the General Court to appear.

8. Apprentices bound and made free, to be fairly entred in proper Books.

9. Every Member may take as many Apprentices as he will.

None to carry Passengers, who have not served two Years.

But if any Master or Mistress, shall cause or suffer his or her Servant or Apprentice to take on

Board any Person or Persons, or his or their Goods or Merchandizes, to carry the same on the *Thames*, before such Servant or Apprentice hath rowed with some able Waterman for the Space of two Years, every such Master or Mistress for every such Offence, shall forfeit to the Use aforesaid the Sum of 10 s.

10. Every Apprentice to be bound for seven Years.

11. And none to be made free till they have served the seven Years.

12. That an Apprentice after the Master's Death, shall be turned over.

13. No Apprentice shall leave his Master's Service, unless to serve the King.

14. Every Member at Sea may bind or make free by Letter of Attorney.

15. An Apprentice not to be kept upon Trial above forty Days.

16. That no Person

free of [the said Compa-

ny, nor his or their Ap-

prentices or Servants, shall on the Lord's

Day ply or row upon the said River, un-

less upon an extraordinary Occasion, to

be allowed of by some Justice of the

Peace, or such as are appointed so to do,

on Pain of 5 s. Nor shall strike or revile

any Ruler, Auditor, or Assistant, upon

Pain of 10 s. or any o-

ther free Waterman,

ry Lighterman or his Ap-

prentices, or any Passenger upon the

said River, upon Pain of 2 s. Nor ply or

row when drunk, or suffer any Fare un-

skilled, to row with both Skulls when in

to Drink; or shall prophanely curse or

swear, on Pain of 2 s. which Offences

shall

*None to row on Sun-
days.*

*Penalty of giving a-
busive Language.*

216 *Of Coathmen, Chairmen,*

shall be proved before the major Part of the said Rulers

17. No Victualler to be of the General Court or Office of the Company.

18. A Member of a General Court dying or being turned out, a new one to be chosen.

19. Auditors to be chosen yearly.

20. No Ruler to lay out above 5 *l.* in one Year, without Orders from the General Court: Penalty of a Ruler's neglecting to prosecute Offenders.

21. Rulers to appoint plying Places, on Pain of 40 *s.*

22. If any Waterman having in his Boat or Wherry any Passengers, shall at the same Time presume to fasten to his said Boat any other Boat, to tow the same after him, he shall forfeit to the Use aforesaid, the Sum of 2 *s.* 6 *d.*

23. Waterman summoned as a Witness against any other Waterman, to be paid for his Time.

24. Forfeitures for not appearing upon Summons.

25. That no Waterman or his Apprentice, shall stick up and lay his Boat at his Staff, so as to hinder and prevent due and orderly passing of any Boat or Wherry, unto

Penalty of hindring a Boat passing to or from the Stairs.

or from any Stairs or landing Places, or to or from the Road's End of the Boats, but shall lie and stick up their said Staves, clear of the said Stairs or landing Places, and beyond the said Road's End, on Pain that the Owner of every such Boat, lying in any other Manner, shall forfeit 6 *d.* to the Use aforesaid.

26. Rulers, Assistants, &c. shall serve without Fee or Reward.

27. If any Waterman or his Apprentice, while rowing along the Shore between *Vaux-hall* and *Lime-house*, shall ply or take in any Fare or Passenger, coming down or standing on the Stairs or Shore, that is treating with another Waterman to carry them, he shall forfeit for every such Offence 1 *s.* to the Use aforesaid, (besides making Satisfaction to the Person wronged.)

Forfeiture for plying another's Fare.

28. If any Waterman shall ply any Fare, before he shall arrive at the publick Place of plying, or shall stand and ply before the Plying-place appointed, or shall follow any Fare when taking Water beyond the usual Mark appointed to restrain them, he shall forfeit 1 *s.* and make Satisfaction to the Party wrong'd.

Rules for plying.

218 Of Coachmen, Chairmen,

Persons rowing with the Stream, to give Notice to others.

29. If any Waterman rowing with the Tide or Stream, shall neglect to give Notice at a reasonable Distance, to all Persons rowing cross or against the Stream; if any Damage happen, the Offender shall not only make Satisfaction for the Damage, but shall forfeit 1 s.

Rules concerning Landing.

And every Waterman who shall hinder the passing or landing of any Nobleman's Barge, or other Barges carrying Passengers, or any Tilt-boat, Row-barge, or Light-horseman, having Notice given him, shall forfeit 2 s. 6 d.

Noae to ply unless his Boat be at the Stairs.

30. That no Waterman between *Gravefend* and *Windsor*, shall ply any Fare or Passenger, except his Boat be at the Stairs or Place at which he plies, on Pain of 5 s.

But ten to be taken into a western Boat.

31. If any Waterman plying the Long-Ferry Westward, shall take into any small Boat or Wherry, above ten Passengers at one Time; or shall

Waterman shall not make his Fare wait at other Stairs.

carry any Passengers from the Place at which he first ply'd them, to any other Stairs or Place with an Intent to ply other Passengers,

sengers, (except such Passengers as stand and call them by the Way, or to meet such Passengers as before have appointed them,) the Offender shall forfeit for every such Offence, 2 s. 6 d.

32. No Waterman plying the Long-Ferry, shall ply any Fare about to take Water with another Waterman (whose proper Turn it is,) (except such Fare signify his Knowledge of such Waterman, or the Waterman prove his Knowledge of such Fare, or the Fare shall ask for a Waterman living or plying at such a Town or Stairs,) on Pain of forfeiting 1 s. besides making Satisfaction to the Waterman deprived of his Fare.

None to ply out of his Turn.

33. All Watermen plying between Woolwich and Kingston, shall keep Way, i. e. he that comes first shall have the Preference to him that comes after: Provided, That this Order do not extend to prevent the Watermen of the several Stairs from keeping a Morning Turn, which shall be kept from Lady-day to Michaelmas at seven in the Morning, and from Michaelmas to Lady-day at eight in the Morning, at which Hours the Country Watermen, shall have equal

But to keep Way.

Except a Morning Turn.

220 *Of Coachmen, Chairmen,*

Privilege and Turn-keeping with the Townsmen: Provided, neither Townsmen nor Countrymen have had a Fare before these Hours, above the Value of 6 *d.* for every Pair of Oars, and 3 *d.* for every Skuller in each Morning; and every Waterman who shall transgress this Order, (besides making Satisfaction to the Party grieved,) shall forfeit 6 *d.*

*Ruler to give Notice
of a Complaint.*

34. That a Ruler, Assistant, &c. receiving a Complaint of any Waterman, shall give Notice to the next Court of Rulers, or within ten Days on Pain of forfeiting the Sum of 5 *s.*

*Lighters to keep their
Turns.*

35. That Persons navigating Lighters or any Craft to or from any Ship or Vessel, or any Place of loading or unloading, shall observe their proper Turns, *i. e.* the first Lighter or Craft laid on Board the Ship or Vessel, or coming to any Place of Loading or Unloading, shall have the Preference of them that come after, both in Loading and Place of lying till loaded or unloaded; and every Person who by Force or otherwise, shall hinder and prevent him whose proper Turn it is so to load or unload, shall forfeit to the Person wronged of his Turn, 40 *s.* and 5 *s.* to the Uses aforesaid.

36. That

36. That if any Lighter, &c. happen to be turned a-drift from any Ship or Vessel, she shall not lose her Turn, provided she be brought on Board the next Flood or Ebb after it happen: And whoever shall endeavour to prevent or hinder such Lighter of his proper Turn, shall forfeit to the Person wronged 20 s. and to the Poor aforesaid 5 s.

Lighters turned a-drift, to have their Turn.

37. That Lightermen bringing up Lighters, &c. on the Flood-Tide; and being therein as high as *Tower-dock*, shall put their said Lighters, &c. under VVay, and in their proper Ranks, without striving to get in-to *London-bridge* one before another (which is of dangerous Consequence to People's Goods and Lives,) on Pain of forfeiting to the Use of the Poor aforesaid, the Sum of 5 s. besides making Satisfaction for the Damage sustained.

Lighters to keep their Ranks near the Bridge.

38. No Lighterman shall row or navigate through *London-bridge*, on the Flood-Tide, above one Lighter, Flat-boat, or other like Craft at one Time, (except at High-water,) nor on the Ebb at a Horsing-water, i. e. at such Times of Tide as it is

But one Lighter to go through-bridge at a Time.

probable the said Lighter, &c. may stop in the Bridge, on Pain of making Satisfaction to every Person thereby wronged, and also to forfeit to the Use aforesaid, 5 s. And if any Person working in any Lighter or other Craft, for want of Care or Skill to work in the said Bridge, his Lighter shall stop therein, he shall not only make Satisfaction to the Parties damnified, but shall forfeit the Sum of 5 s.

*Notice to be given,
where a Lighter stops
in the Bridge.*

39. That if a Lighter happen to stop in the Bridge, the Person working it, shall give Notice to all that are working any Craft towards the said Bridge; and if in the Night, shall set up a Light in the Vessel so stopped, on Pain of forfeiting the Sum of 10 s.

*Forfeiture where a
Lighter stops in the
Bridge.*

40. If any navigate a Lighter or other large Craft through-Bridge, on the Flood-Tide, before the Water is of sufficient Height, to carry such Lighter over the Hill, on the other Side of the said Bridge and shall stop thereon, such Offender shall forfeit 5 s. and make Satisfaction to the Persons receiving Damage thereby.

41. If

41. If any Lighterman shall buy Coals of one Sort, and vouch them to be of another Sort, he shall forfeit 40 s. to the Use aforesaid.

Frauds in buying Coals.

42. All Lightermen selling Coals, shall sell Pool-measure, commonly called Water-measure, that is to say, one and twenty Chaldron to the Score, or otherwise to sell the same Measure each Person buys, (provided the Parcel be five Chaldron and a Vat at the least.) And every Person doing the contrary, shall forfeit for every Vat of Coals, sold short of the Measure so bought, 40 s. and make Satisfaction to the Party defrauded, or forfeit the further Sum of 10 l. to the Use aforesaid, and shall also be posted up at the four Corners of *Bil-lingsgate-Market*, as a fraudulent Person, and there shall be paid to the Informer out of the said Penalty of 10 l. the Sum of 40 s.

Lightermen to sell Pool-Measure.

43. None shall use another's Lighter on Pain of 5 s.

44. If any Lighterman or Waterman, shall set at work to row up on the said River any Person not free of the said Company, or shall load in or navigate, any Lighter,

Forfeiture of employing one not free of the Company.

224 Of Coachmen, Chairmen,

Flat-boat or other Craft, owned by or belonging to any unregistred Person, (Wharfingers or Woodmongers of London, for their own proper Use excepted,) such Person shall forfeit 10 s. *per diem*.

Forfeiture for culling Coals.

45. None shall cull Coals where several Persons have Shares in the Loading, on Pain of forfeiting 5 s. *per Chaldron*, among which such culled Coals shall be mixed.

None may join in Partnership with one not registred as a Lighterman.

46. No Person shall join in Partnership as a Lighterman, to trade or deal in Coals, or in the owning and occupying of any Lighter, or other Craft, for the carrying of any Goods or Merchandizes, with any Person not registred as afore-said as a Lighterman, on Pain of forfeiting for every Lighter or other Craft so worked, 10 s. for every Day the same shall be worked; and for every Chaldron of Coals disposed of, and sold in such Partnership, the Sum of 20 s.

Lighter may exchange his Turn.

47. A Lighter lying on Board a Ship or Vessel, may dispose of or exchange his Turn with another: And every Lighterman who shall obstruct or hinder such Disposall or Exchange after the Parties have agreed the same, shall for-

forfeit to the Party grieved 10 s. and also 10 s. to the use of the Poor aforesaid.

48. Whoever shall loosen a Lighter from his proper Fast shall forfeit 5 l. and make Satisfaction to the Party grieved ; and if any Lighterman shall take any Person's Skiff, Boat-Skulls, Headfast, or Lighters, or other Craft, or their Oars, or other like Instruments without Leave, he shall forfeit 5 s. and make Satisfaction to the Party grieved.

Penalty for meddling with another's Oars, &c.

49. That Damages sustained by stopping the Passage of *Bridewell-Dock*, &c. shall be heard by the Rulers, and if either Party refuse to appear, he shall forfeit 20 s. and also be liable to be punished for the same by the Lord Mayor, as Conservator of the River *Thames*.

Bridewell-Dock.

50. Persons discovering unregistred Men working any Lighter, &c. shall receive as a Reward the Sum of 20 s. of the Rulers.

Reward for discovering unregistred Men.

51. Comptrolers to be chosen, and their Duty.

52. Where any Waterman or Lighterman shall have his Vessel stayed or damaged by another, the Offender

Remedy where a Vessel is stayed.

226 Of Coachmen, Chairmen,

der shall he summoned before the Ruler, and if he do not appear on the Summons he shall forfeit: 5 s.

*Boats and Lighters
to have a Number on
them.*

53. Every Owner of of a Boat, Lighter, or other Craft imployed in carrying or transporting Goods or Passengers, and subject to the Company of Watermen and Lightermen, shall mark and number their said Boats, with plain Figures on the Linings on each Side, just abaft the Wherrit-stoppers of every Boat and Wherry, and on Lighters and Lighter-built Vessels, with plain Figures on the Bows, and on Barges on the Hudds-boards, to be always in the Day-time plainly seen; and that a Register of the Number thereof, and the Owners Names and Places of Abode, be made and kept by the Clerk of the Company for any Person to view, search and discover Offenders: And every Waterman and Lighterman, Owner of a Vessel not so numbered, who shall not within fourteen Days after Notice, number his Boat as required, shall forfeit for every Week he shall neglect to mark and register the same, the Sum of 5 s.

54. Money

54. Money to be paid upon taking their Freedoms, or registering,

55. Poor Watermen to receive the Money allowed them quarterly.

56. The Rulers annually to take an Oath, and enter into Bond for the due Performance of their Office.

57. Rulers and Officers taking more than their settled Fees, to return what they have extorted and treble Damages, and shall forfeit their Offices.

58. No Goods or Passengers shall be placed upon the Bails of a Row-barge or Lighter, carrying Goods and Passengers between *London* and *Windsor*, on Pain of 10 s.

Orders relating to the Gravesend Tilt-boats and Wherries.

59. **N**O Person shall Act as Master or Chief Steersman of a Tilt-boat, Row-barge or Light-Horseman, till approv'd or licenced by the General Court, under the Penalty of 5 l. And if the Master or Chief Steersman of a Tilt-boat, shall take into his Boat above thirty-seven Passengers at one Time, and three more by the Way ; or if the Master of a Wherry plying the said Ferry, (or any of the Ferries of London, Grays, Greenhithe, Purfleet, or Erith,) shall take into his Boat above seven Passengers at one Time, and two more if called in by the Way, he shall forfeit and pay for every Passenger over and above the said respective Numbers , $2 \text{ s. } 6 \text{ d.}$

Master of a Tilt-boat must be licensed.

Not to take in above forty Persons.

Nor a Wherry above nine.

Other Rules concerning plying.

60. Any Waterman plying the Long-Ferry between London and Gravesend, being Master of a Wherry, and having an Apprentice, shall have Liberty of plying and assisting any other Water-

Waterman working with his Apprentice, notwithstanding any former Orders to the contrary, provided such Master ply but to one Boat in a Tide: But if he shall ply to more than one Boat, he shall forfeit 5 s. If a Waterman plying the said Ferry, shall stand before the publick Plying-place, or lay Hands on any Coach or Bridle of any Horse, or of any Fare or Passenger or their Goods, without the Order of the Passenger, he shall forfeit 1 s. and make Satisfaction to the Party wronged: And if any who plies to a Wherry or Tilt-boat, having a Promise of a Fare or Passenger, shall be interrupted by another Waterman, to the disturbing of the said Fare or Passenger, or shall proffer to go for less than the appointed Price, or shall have more Plyers than one to a Boat, he shall forfeit 2 s. 6 d. and make Satisfaction to the Party wrong'd; and if any Boat-keeper shall come out of his Boat to ply a Fare, he shall forfeit 1 s. If any Waterman shall carry a Fare on a Saturday-Night, the Tide flowing at *London* after seven a Clock, and ebbing at *Gravesend* after the same Hour, he shall forfeit 5 s.

If a Waterman shall under-value another's Boat, by saying it will drown the Passengers, or that he can go faster

Penalty of undervaluing another's Vessel.

230 *Of Coachmen, Chairmen,*

faster, &c. whereby the other loses his Fare, the Offender shall forfeit 10 s. and make Satisfaction to the Party wronged.

Of sending a Passenger to other Stairs. If a Waterman shall send his Fare or Passenger,

to any other Stairs than where he plied, in order to take them in there, he shall forfeit 2 s. or if he shall assign a Fare or Passenger to another Waterman for Gain, he shall forfeit 1 s. 6 d.

Of turning to Windward. If a Tilt-boat Master shall turn to Windward,

(except one Trip in each particular Reach) he shall forfeit 10 s. And the Master of a Wherry offending in like Manner, shall forfeit 2 s. 6 d.

Penalty of disobeying a Summons. 62. If two or more of the Rulers, shall by a Summons in Writing

under their Hands, and the Seal of the Company, summon any Person for any Offence against the Orders above-mentioned, by causing such Summons to be shewed to him, or causing the same to be left at the usual Place of his Abode. The Offender shall either pay the Penalty forfeited to the Person appointed by such Summons to receive the same, or appear before the Rulers at the Time mentioned in the Summons, to shew Cause

Cause why he ought not ; and if such Offender shall neglect so to do, or appearing, shall refuse to pay the Penalty by him incurred, he shall further forfeit for his Non-appearance or Non-payment, the Sum of 10 s.

63. All former Orders not herein specified are repealed.

I have seen and perused these By-Laws, and do approve, allow, and confirm the same. Dated 16 April Anno septimo Annæ Reginae, 1708.

J. HOLT.

ATA

*A Table of Fees to be taken by the
Rulers, Clerk, and Officers of the
Company of Watermen and Lightermen.*

Court-Fees.

| | <i>s.</i> | <i>d.</i> |
|---|-----------|-----------|
| <i>Fees.</i> F OR Quarteridge yearly, | 2 | 0 |
| For binding a Servant, | 2 | 6 |
| besides Stamps, | | |
| For assigning an Apprentice to another Master, | 2 | 6 |
| The Fine for every Person made free, | 3 | 4 |
| For building a new Hall and o- ther publick Uses of the said Company, every Person made Free, to pay | 6 | 0 |

Clerks Fees.

| | | |
|---|----|---|
| For a Deputation to a Master of a Row-barge, Light-horseman or Tilt-boat, | 10 | 0 |
| For a sealed Copy of a Freedom or Register, | 2 | 6 |
| For binding or turning over an Apprentice, | 1 | 0 |

For

| | | | |
|---|---|---|---|
| For crossing out an Apprentice, | } | o | 6 |
| searching the Register, Copy of an Order of Court, or any Li- cence or Certificate. | | | |
| For a Copy of a Register, an In- denture being lost, | } | I | o |
| | | | |

Officers Fees.

| | | | |
|--|---|---|---|
| Binding or turning over an Ap- prentice, to each Officer, | } | o | 6 |
| For a Freedom of a Register-Seal, | | | |
| For a Deputation to a Master of a Row-barge, Light-horseman or Tilt-boat, to each Officer, | } | I | o |
| For summoning an Offender to Court, | | | |
| For the Batchelor's Boul accord- ing to an ancient Custom, | } | I | o |
| | | | |

A Table of the Rates and Prices appointed by the Lord Mayor and Court of Aldermen, to be taken by the Watermen rowing upon the River Thames, between Gravesend and Windsor.

Rates of Watermen.

FROM London to Gravesend, one whole Fare in Oars 4 s. 6 d. with Company 9 d.

From London to Grays, one whole Fare in Oars 4 s. with Company 8 d.

From London to Green-bithe, the whole Fare 4 s. with Company 8 d.

From London to Erith or Purfleet, the whole Fare in Oars 3 s. with Company 6 d.

From London to Woolwich, one whole Fare 2 s. 6 d. with Company 4 d.

From London to Blackwall, one whole Fare 2 s. with Company 4 d.

From London to Greenwich, one whole Fare in Oars 1 s. 6 d. with Company 3 d.

From London to Deptford, the whole Fare in Oars 1 s. with Company 3 d.

From London to Limehouse, the whole Fare in Oars 1 s. in a Skuller 6 d.

From London to New-Crane, Shadwell Dock, Bell-Wharf, Ratcliff-Cross, the Fare in Oars 1 s. a Skuller 6 d.

From s

Carrmen and Watermen. 235

From *London* to *Wapping-Dock*, *Wapping-new* and *Wapping-old-Stairs*, Oars 6 d. a Skuller 3 d.

From *London* to the *Hermitage*, Oars 6 d. a Skuller 3 d.

From *London* to *Rotherbith-Church-Stairs*, and *Rotherbith-Stairs*, in Oars 6 d. a Skuller 3 d.

From *St. Olave's* to *Rotherbith Church-Stairs* and *Rotherbith Stairs*, in Oars 6 d. a Skuller 3 d.

From *Billingsgate*, *London*, and *St. Olave's* to *St. Saviour's-Mill*, in Oars 6 d. a Skuller 3 d.

Over the Water directly between *London-Bridge* and *Limehouse*, for the next Skuller 2 d.

All the Stairs between *London-Bridge* and *Westminster*, Oars 6 d. a Skuller 3 d.

From *London-Bridge* on either Side above the said Bridge to *Lambeth* and *Vaux-hall*, Oars 1 s. a Skuller 6 d.

From *White-hall* to *Lambeth* and *Vaux-hall*, Oars 6 d. a Skuller 3 d.

From the *Temple-Stairs*, *Dorset-Stairs*, *Black-Friars*, *Paul's-Wharf* to *Lambeth*, in Oars 8 d. a Skuller 4 d.

Over the Water directly in the next Boat between *London-Bridge* and *Vaux-hall*, in a Skuller 2 d.

From *London* to *Chelsea*, *Battersey* and *Wandsworth*, one whole Fare in Oars 1 s. 6 d. with Company 3 d. From

236 Of Coachmen, Chairmen,

From *London* to *Putney, Fulham, Barn-
elms*, the whole Fare in Oars 2 s. with
Company 4 d.

From *London* to *Hammersmith, Chiswick
and Mortlack*, the whole Fare in Oars
2 s. 6 d. with Company 6 d.

From *London* to *Brentford, Isleworth
Richmond*, the whole Fare in Oars 3 s. 6 d.
with Company 6 d.

From *London* to *Twittenham*, the whole
Fare in Oars. 4 s. with Company 6 d.

From *London* to *Kingston*, the whole
Fare in Oars 5 s. with Company 9 d.

From *London* to *Hampton-Court*, the
whole Fare in Oars 6 s. with Company
1 s.

From *London* to *Hampton-Town, Sunbury
Walton upon Thames*, the whole Fare in
Oars 7 s. with Company 1 s.

From *London* to *Weybridge and Chertsey*
the whole Fare in Oars 10 s. with Com-
pany 1 s.

From *London* to *Stanes*, the whole Fare in
Oars 12 s. with Company 1 s.

From *London* to *Windsor*, the whole
Fare in Oars 14 s. with Company 2 s.

Rate

*Rates for carrying Goods and Passengers in
the Tilt-boat between Gravesend and
London.*

For an half Firkin 1 d. a whole Fir-
kin 2 d. a Hoghead 2 s.

For an hundred Weight of Cheese,
Iron, or any other heavy Goods 4 d.

For a Sack of Salt or Corn 6 d.

For an ordinary Chest or Trunk 6 d.

For the whole Tilt-boat when taken
by one Person, 1 l. 2 s. 6 d.

For every single Person in the ordinary
Passage 6 d.

F I N I S.

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J. Hook, and F. Clay.*

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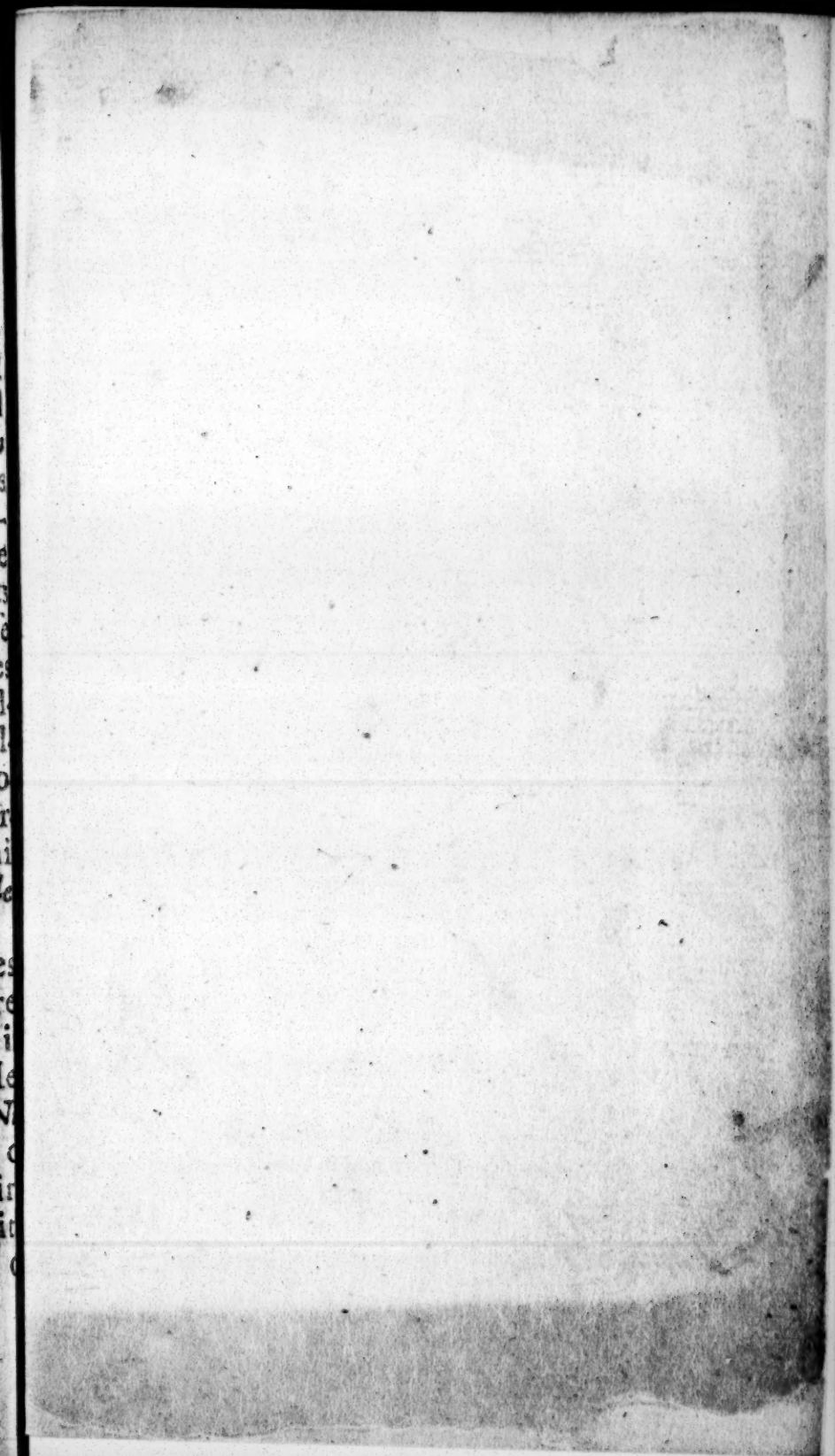
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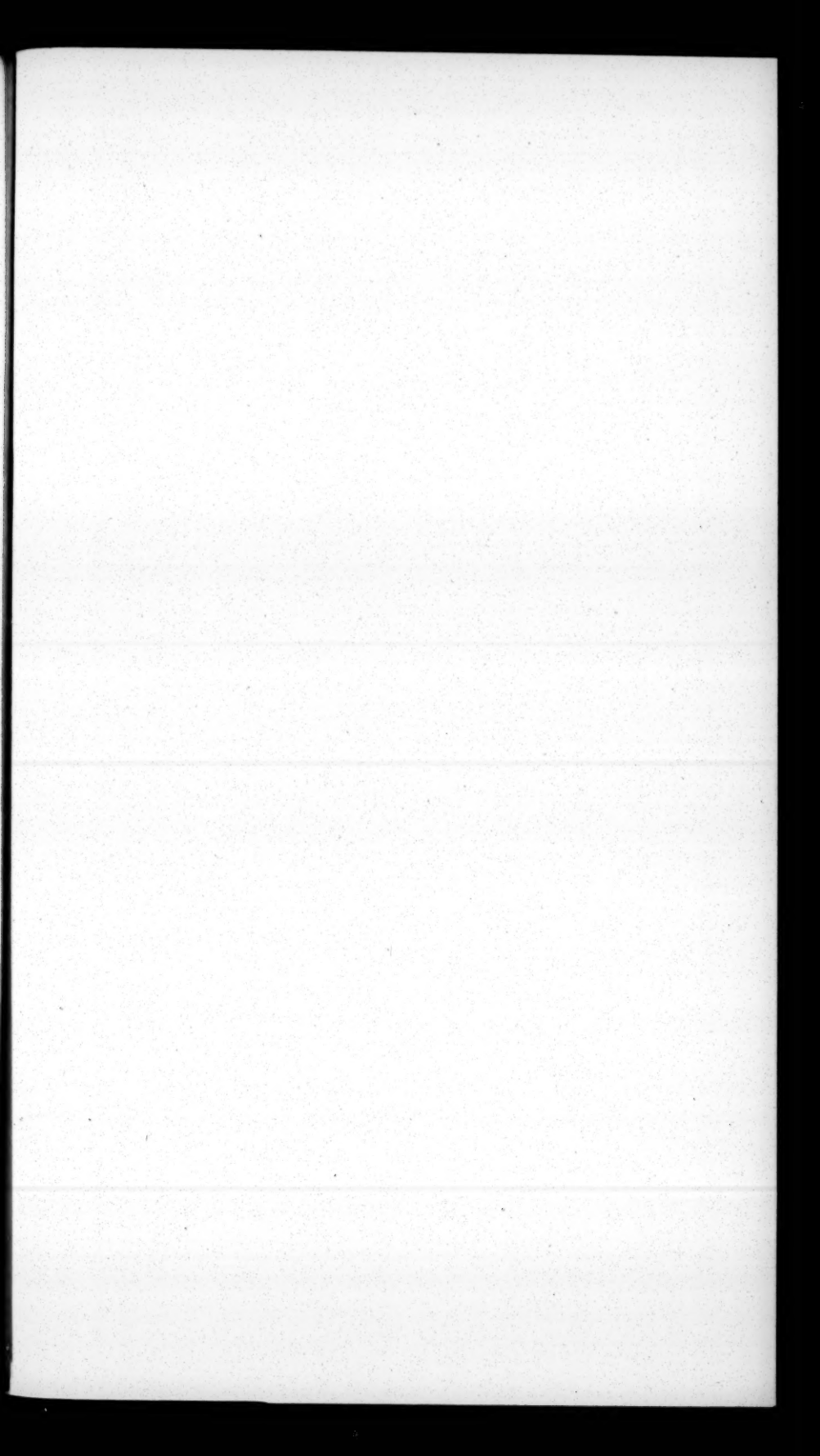
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